

TONY RODRIGUEZ

5/8/2014

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

MARC VEASEY, et al.,)
 Plaintiffs,)
)
v.) CIVIL ACTION NUMBER
) 2:13-cv-193(NGR)
RICK PERRY, et al.,)
 Defendants.)

ORAL DEPOSITION OF

TONY RODRIGUEZ

MAY 8, 2014

ORAL DEPOSITION OF TONY RODRIGUEZ, produced as a
witness at the instance of Plaintiffs, and duly sworn,
was taken in the above-styled and numbered cause on
May 8, 2014, from 9:16 a.m. to 6:35 p.m. before Kim
Seibert, CSR in and for the State of Texas, reported by
machine shorthand, at the law offices of DECHERT LLP,
300 West Sixth Street, Suite 2010, Austin, Texas,
pursuant to the Federal Rules of Civil Procedure and/or
the provisions stated on the record or attached hereto.

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1 TONY RODRIGUEZ,
2 having been first duly sworn, testified as follows:

3 EXAMINATION

4 BY MS. MARANZANO:

5 Q. Good morning.

6 A. Good morning.

7 Q. My name is Jennifer Maranzano, and I'm
8 representing the United States in this matter. Can you
9 please state your name for the record?

10 A. My name is Manuel Antonio Rodriguez.

11 MS. MARANZANO: And can we have counsel
12 please identify themselves for the record.

13 MR. BRAZIL: Scott Brazil for the Veasey
14 plaintiffs.

15 MS. KORGAONKAR: Natasha Korgaonkar from
16 the NAACP Legal Defense Fund for the Texas League of
17 Young Voters Group.

18 MR. SHORDT: Richard Shordt with
19 WilmerHale for the Texas League of Young Voters.

20 MR. HAYGOOD: Ryan Haygood for the Texas
21 League of Young Voters from the NAACP Legal Defense
22 Fund.

23 MR. KEISTER: Ronnie Keister for the
24 defendants. And Kathleen Murphy is here. She's
25 general counsel, DPS.

1 Q. (BY MS. MARANZANO) Sir, first of all, I would
2 like to go through some ground rules for this
3 deposition. You've been placed under oath today, so
4 it's important that you testify truthfully, accurately,
5 and completely. Do you understand?

6 A. Yes.

7 Q. The court reporter will prepare a transcript
8 of everything that is said. So if you could wait until
9 I finish a question before you answer, and I'll wait
10 until you finish answering before I ask the next
11 question. Is that okay?

12 A. Yes.

13 Q. And if you would please just remember to
14 respond to my questions verbally instead of nodding or
15 shaking your head. Is that okay?

16 A. Yes. I'll try.

17 Q. Thank you. I will try to ask you clear
18 questions. If you don't understand a question, please
19 just stop and let me know. Is that okay?

20 A. Yes.

21 Q. If you wish to stop and take a break, let me
22 know and I will do my best to accommodate you.

23 From time to time your attorney may make
24 an objection. He's making that objection for the
25 record and unless he instructs you not to answer, you

1 can go ahead and answer my question. Okay?

2 A. Yes.

3 Q. Do you understand these instructions?

4 A. Yes.

5 Q. Are you on any medication today that would
6 affect your ability to testify truthfully, accurately,
7 and completely?

8 A. No.

9 Q. Is there any other reason why you cannot
10 testify truthfully, accurately, and completely today?

11 A. No.

12 Q. Today during this deposition I may use the
13 term "EIC." When I do that I'm referring to an
14 election identification certificate. Is that okay?

15 A. That's fine.

16 Q. And I may use the term "DPS" today. And when
17 I use that term I'm referring to the Department of
18 Public Safety. Is that okay?

19 A. Yes.

20 Q. Okay. Are you employed?

21 A. Yes.

22 Q. Where are you employed?

23 A. Physically?

24 Q. No, the name of the entity that you work for.

25 A. The Department of Public Safety.

1 Q. And what is your position with them?

2 A. I'm a senior manager in the driver license
3 division.

4 Q. How long have you held that position?

5 A. About 2-1/2 years.

6 Q. Have you held any other positions at DPS?

7 A. No.

8 Q. What are your responsibilities?

9 A. In my capacity as a senior manager in the
10 driver license division, I'm responsible for the
11 operations of all of the driver license offices in DPS
12 Regions 3, 4, 5, 6A, and 6B.

13 Q. And what is the significance of those regions?

14 A. That's how the Department of Public Safety
15 geographically divides the state.

16 Q. So which geographic portion of the state is
17 that?

18 A. That's roughly described as the western
19 portion of the state. It extends from -- from the tip
20 of the -- the tip of the state into the Panhandle and
21 out to El Paso. And it also includes the central
22 portion of the state centered around Austin and
23 San Antonio.

24 Q. Okay. Does anybody report directly to you?

25 A. Yes.

1 Q. How many people?

2 A. My direct reports?

3 Q. Uh-huh.

4 A. The managers for those regions that I
5 indicated previously, they all report to me. And
6 that's about five.

7 Q. And what are their positions?

8 A. They're referred to as regional managers.

9 Q. Who do you report to?

10 A. I report to Deputy Assistant Director
11 Paul Watkins.

12 Q. And who does Mr. Watkins report to?

13 A. Paul reports to Assistant Director Joe Peters.

14 Q. And how many people are between you and DPS
15 director Steve McCraw?

16 A. Three, I believe.

17 Q. So Mr. Peters reports to --

18 A. Mr. Peters report to Cheryl, Cheryl MacBride.
19 She's the deputy director.

20 Q. Okay.

21 A. And Cheryl reports to Director McCraw.

22 Q. Okay. Can you tell me what your
23 responsibilities are specifically with regard to EICs?

24 A. Yes.

25 Q. What are they?

1 A. I was asked to -- to be the agency point of
2 contact or correction, the driver license point of
3 contact for the EIC program.

4 Q. And what does that mean, the agency point of
5 contact?

6 A. It means that I was responsible to oversee it
7 from -- from its start, roughly June until the present
8 time.

9 Q. Are you still responsible for overseeing the
10 program?

11 A. Yes.

12 Q. Was that -- I believe you said you were asked
13 to do that?

14 A. Yes.

15 Q. Who asked you to do that?

16 A. It was -- it was Paul Watkins and Joe Peters.

17 Q. Did you -- did you request that role?

18 A. Did I request it?

19 Q. Uh-huh.

20 A. No.

21 Q. What was your training for that?

22 A. I didn't receive any formal training for that.

23 Q. Do you know why you were chosen for this role?

24 A. It may have been -- well, it's speculant.

25 MR. KEISTER: If you know.

1 THE WITNESS: It's -- my speculation --

2 Q. (BY MS. MARANZANO) Uh-huh.

3 A. -- is that it was because of my previous
4 experience in the US Army.

5 Q. And what experience is that?

6 A. I was an Army strategist.

7 Q. And what was your role as an Army strategist?

8 A. I planned wars.

9 Q. And why do you think that that experience was
10 relevant to the -- to taking on the position overseeing
11 the EIC program?

12 A. In order to do that, I graduated from the
13 School of Advanced Military Studies, and the curriculum
14 in the School of Advanced Military Studies establishes
15 a -- it establishes a plan or a way to design large
16 operations.

17 Q. Okay. Sir, did you say you were the statewide
18 point of contact for the EIC program?

19 A. Within the Department of Public Safety.

20 Q. Is there a statewide point of contact within
21 other agencies, other state agencies?

22 A. There may be. I don't know.

23 Q. Okay. Do you have a responsibility for
24 ensuring that DPS is issuing EICs accurately?

25 A. Yes. Define "accurate."

1 Q. Making sure that those individuals who receive
2 an EIC are, in fact, eligible for an EIC.

3 A. You're going to have to be more specific than
4 that because I have -- as I've described, I have
5 two responsibilities, my first responsibility within
6 the DPS regions that I spoke to you about. And part of
7 that is to -- is to ensure that customers or applicants
8 who come to our offices receive the -- the documents,
9 the election certificates or driver licenses or
10 ID cards that they're seeking. So I have that
11 responsibility. But I also have a responsibility to
12 coordinate the election certificates.

13 Q. Okay. And in your role as coordination --
14 coordinator of the election certificates, do you -- is
15 part of your role to ensure that individuals who are
16 eligible for an EIC obtain an EIC?

17 A. I -- I help establish the rules, the
18 procedures, to allow individuals to -- who seek EICs
19 and are eligible to receive those documents.

20 Q. Okay. Do you have responsibility for ensuring
21 the EIC program is a success?

22 MR. KEISTER: Object, vague.

23 Q. (BY MS. MARANZANO) Do you understand the
24 question?

25 A. Not entirely.

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1 Q. Do you have a responsibility for ensuring that
2 the EIC program is run effectively?

3 A. I don't understand what you mean by
4 "effectively."

5 Q. Do you have -- do you have a responsibility
6 for ensuring -- actually, strike that.

7 Can you tell me what percentage of your
8 time is spent on the EIC program versus the -- your
9 other role of overseeing the driver's license?

10 A. That's -- it depends. And the reason that it
11 depends is it will depend if we're in an election cycle
12 or not. For example, in between election cycles we --
13 I don't spend more than about 30 minutes a day as --
14 and during an election cycle, as we're doing now, it
15 may -- it may increase. But that information is
16 reflected on my time card.

17 Q. Okay. And have you given your time card to --
18 to counsel for Texas?

19 A. No.

20 Q. Has he requested it from you?

21 A. No.

22 Q. I'm sorry.

23 MR. KEISTER: Don't answer any questions
24 about what you and I or any other counsel talked about.

25 THE WITNESS: Sorry.

1 MR. KEISTER: That's all right.

2 Q. (BY MS. MARANZANO) Can you tell me -- you
3 said during an election cycle you spend more than
4 30 minutes a day. What -- what do you define as an
5 election cycle?

6 A. I define an election cycle as the --
7 approximately it's the period that leads up to an
8 election and while the -- up to the point of the
9 election; and then if there is a cure period, then that
10 point in time after the election.

11 Q. What -- when you say "the time leading up to
12 election," what -- how -- how far before an election do
13 you -- do you consider that starting?

14 A. It depends. It will depend on a variety of
15 things. The more elections that we've done, then the
16 less time we need to prepare because the -- the
17 procedures are already in place.

18 Q. And did you say right now you consider
19 yourself in an election cycle?

20 A. Yes.

21 Q. And when would you say this election cycle
22 began?

23 A. To the best of my knowledge, we started our --
24 we started our daily meetings on the 28th of April.

25 Q. The 28th of April. And you're leading up to

1 which election?

2 A. To the -- I should be able to rattle it off.
3 There's primaries that are coming up.

4 Q. Do you know when they're coming up, what the
5 date is?

6 A. I would have to look at a calendar, but it's
7 in late May.

8 Q. And can you tell me, prior to the March
9 primary, when did you start spending more time on the
10 EIC program?

11 A. Probably around the beginning of April.

12 Q. The beginning of the -- the April before the
13 March primary, so almost 11 months?

14 A. Oh, I'm sorry.

15 Q. Is it --

16 A. I can't remember.

17 Q. Okay.

18 A. Sorry.

19 Q. Do you -- do you know approximately when?

20 A. No. I would have to look at a calendar.

21 Q. When do you anticipate the program gearing up
22 in advance of the November general election?

23 A. That will be a discussion between ourselves
24 and the Secretary of State.

25 Q. Has it geared up now?

1 A. Not to my mind, no.

2 Q. And when you're in an election cycle can you
3 tell me about how much time you spend on the EIC
4 program?

5 A. Well, it's variable, but, generally speaking,
6 it can be between one to three hours a day.

7 Q. Between -- have you ever spent more than
8 three hours a day working on the EIC program?

9 A. Yes.

10 Q. And when was that?

11 A. It was when the EIC program first started in
12 June. And I certainly spent more than three hours a
13 day preparing for this.

14 Q. And when the EIC program started in June,
15 about how much time did you spend on it?

16 A. I couldn't tell you. It was a lot.

17 Q. Okay. Do you understand that your testimony
18 today is on behalf of the Department of Public Safety?

19 A. Yes.

20 (Exhibit No. 63 marked.)

21 THE REPORTER: Exhibit 63.

22 Q. (BY MS. MARANZANO) I'm showing you what we've
23 marked for the record as Exhibit 63. Do you recognize
24 this document?

25 A. Stand by. Yes.

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1 Q. What -- what is this?

2 A. It's a notice of deposition.

3 Q. Are you prepared to testify today about
4 Topics 1, 3, and 4?

5 A. Yes.

6 Q. What did you do to prepare for today's
7 deposition?

8 A. Spoke with counsel.

9 Q. Who did you meet with?

10 A. Mr. Keister and Ms. Murphy.

11 Q. Anybody -- was anybody else there?

12 A. Present?

13 Q. Present --

14 A. No.

15 Q. -- in that meeting.

16 And when did you meet with Mr. Keister
17 and Ms. Murphy?

18 A. Sometime last week and this week.

19 Q. Did you review any documents in preparation
20 for today's deposition?

21 A. Yes.

22 Q. Which documents?

23 A. Well, we reviewed the deposition. We reviewed
24 the state statute. We reviewed the admin code. We
25 reviewed other documents that escape me right now. Oh,

1 and I also have the documents that I brought with me.

2 Q. And you said you reviewed the deposition?

3 A. The notice of deposition.

4 Q. Oh, the notice of deposition. Okay. Thank
5 you.

6 A. I'm not a lawyer.

7 Q. Did you talk to anybody else about your
8 deposition?

9 A. Yes.

10 Q. Who was that?

11 A. I spoke with members of the DPS staff in
12 driver license to gather information.

13 Q. Which members of the DPS staff?

14 A. Ryan O'Connor.

15 Q. And who is he?

16 A. Ryan O'Connor is one of our analysts in our
17 business intelligence center.

18 Q. Anybody else?

19 A. I spoke with Kris Krueger.

20 Q. Who is he?

21 A. Kris Krueger is sort of our strategic analyst
22 in business intelligence. Cynthia Collins, she is --
23 colloquially we call her battle captain. She's
24 somebody who handles -- who gathers the day-to-day
25 information about EIC operations that are ongoing, so I

1 needed to speak to her. She also runs our daily EIC
2 meetings.

3 I spoke with Paul Watkins about some
4 historical items. I spoke briefly with Joe Peters.
5 I'm trying to remember if I spoke with anybody else.

6 That's all that comes to mind. Oh, I
7 know that I spoke with Steve Bell. He's the other
8 senior manager who's responsible for DPS Regions 1 and
9 2.

10 Q. For Topic -- can you just look at this notice
11 for a minute. For Topic No. 1, who would you say at
12 DPS has the most knowledge about Topic No. 1? And if
13 it varies by subpart, you can identify that.

14 MR. KEISTER: Object to form, calls for
15 speculation.

16 But you can answer.

17 THE WITNESS: Okay.

18 I think if you're looking for a single
19 person that knows the most, it probably would be
20 Kathleen. She's reviewed all the documents.

21 Q. (BY MS. MARANZANO) Are you talking about your
22 counsel?

23 A. Yes.

24 Q. Okay.

25 MR. KEISTER: Don't talk --

1 Q. (BY MS. MARANZANO) I'm talking about --

2 MR. KEISTER: Objection, attorney/client.
3 Don't talk about anything or any conversations you've
4 had with any attorneys in the case.

5 THE WITNESS: Well, then, other -- other
6 than me, probably not.

7 Q. (BY MS. MARANZANO) And in relation --

8 MR. KEISTER: Even if you're trying to
9 compliment, don't do it.

10 THE WITNESS: I'm not trying to do that.
11 I'm just trying to answer the question.

12 Q. (BY MS. MARANZANO) In relation to Topic 3,
13 who at DPS, not including your counsel, has the most
14 knowledge about that topic?

15 A. That would be me.

16 Q. And on Topic 4, who at DPS has the most
17 knowledge about Topic 4?

18 A. Well, with the exception of concealed handgun
19 licenses, that would be me.

20 Q. Okay. Did you rely on any documents in
21 preparing for today's deposition that you did not
22 produce to us today?

23 A. Yes.

24 Q. Which documents are those?

25 A. So I -- you may have this already. I relied

1 on an excerpt from the Transportation Code,
2 Chapter 521A, election identification certificate.

3 Q. Anything else?

4 A. Yes. I relied on an excerpt of the Texas
5 Administrative Code. I call it the admin -- admin
6 rules. Paragraph 15.181 deals with election
7 certificates.

8 Q. Anything else?

9 A. Yes.

10 MR. KEISTER: For the record, those are
11 the documents that were -- that he's given.

12 MS. MARANZANO: Yeah.

13 Q. (BY MS. MARANZANO) I'm sorry. Just to be
14 clear, I was just asking if there were other documents
15 apart from what you've produced this morning.

16 A. So you don't want me to enumerate them?

17 Q. I -- no, you don't need to enumerate the ones
18 that we have in our possession.

19 A. Okay.

20 Q. Thank you.

21 Were there any others apart from those
22 that you relied on?

23 A. Not to my knowledge.

24 Q. Okay. Are you familiar with an application
25 for an election identification certificate?

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1 A. I'm familiar with the DL-14C.

2 Q. When did DPS start issuing EICs?

3 A. Late June of last year.

4 Q. And, for the record, what is an EIC?

5 A. An election identification certificate?

6 Q. Uh-huh.

7 A. It's a card.

8 Q. What's the -- what is the purpose of it?

9 A. The purpose is to allow someone to vote.

10 (Exhibit No. 64 marked.)

11 THE REPORTER: Exhibit 64.

12 Q. (BY MS. MARANZANO) I'm showing you what we're
13 marking for the record as Exhibit 64. Do you recognize
14 this document?

15 A. Yes.

16 Q. What is it?

17 A. It's the December 2011 version of a DL-14C.

18 Q. And has this document changed since
19 December 2011?

20 A. This document has been modified. It's been
21 updated, yes.

22 Q. Can you tell me what's been modified?

23 A. I would need to see the current version in
24 order to point it to you.

25 Q. Do all offices accepting EICs use the DL-14

1 form?

2 A. The DL-14C?

3 Q. Uh-huh. I'm sorry. The DL-14C.

4 A. Yes.

5 Q. Who developed this application?

6 A. Our -- our -- well, the person who oversaw the
7 development is Deputy Assistant Director
8 JoeAnna Mastracchio. She works in driver license
9 division.

10 Q. Did anybody else give input?

11 A. Yes.

12 Q. Who?

13 A. That would have been myself, Stephen Bell, and
14 probably Paul Watkins, because we're the customer end
15 of the business.

16 Q. Was there any input from the Secretary of
17 State's office?

18 A. I'm unaware of any.

19 Q. Was there any input from the governor's
20 office?

21 A. I'm unaware of any.

22 Q. Did DPS rely on other applications in
23 developing this application?

24 A. Did they rely on other applications?

25 Q. Uh-huh.

1 A. Well, the DL-14C mirrors a DL-14, which is an
2 application for a driver license or a personal
3 identification certificate.

4 Q. And how similar is the EIC application to the
5 application for a driver's license or a personal
6 identification certificate?

7 A. You would have to show it to me and I can
8 point out the differences.

9 Q. As you sit here today, you don't -- you don't
10 know what the differences are?

11 A. No -- well, no.

12 Q. Did DPS try to make the EIC application easy
13 to understand?

14 A. Yes.

15 Q. What steps did it take to ensure that the
16 application was easy to understand?

17 A. Well, relying on the DL-14 that had gone
18 through an extensive vetting process. And there are
19 modifications and updates to that to ensure the public
20 understands it. And -- and so the department also --
21 when we were asked to -- to issue identification or
22 election identification certificates used the DL-14 as
23 a basis for it, and then we -- it was discussed to make
24 sure that it was -- the instructions were clear.

25 Q. Did DPS give any consideration to the fact

1 that the population applying for an EIC might be
2 different than the population applying for the election
3 identification certificate?

4 A. Not to my knowledge.

5 Q. Isn't it true that an individual who's
6 applying for an EIC by definition wouldn't have a
7 driver's license?

8 A. Not necessarily.

9 Q. Wouldn't -- would not have a current driver's
10 license?

11 A. Not necessarily.

12 Q. How would a person who has a current driver's
13 license be eligible for an EIC?

14 A. If the customer chose to, the customer could
15 surrender their driver license.

16 Q. Okay. Did DPS design the application -- the
17 EIC application to seek only the information that's
18 required to ensure EIC eligibility?

19 A. The department designed the -- the DL-14C to
20 gather the information that was established in the
21 admin rules.

22 Q. Did DPS have any other objectives when it
23 developed this -- the application for an EIC?

24 A. I don't understand the question.

25 Q. Well, we've -- you -- you testified that DPS

1 tried to ensure the EIC application was easy to
2 understand.

3 A. The same way we do with all our documents,
4 yes.

5 Q. And you testified that the application was
6 designed to solicit information that is required to
7 ensure EIC eligibility?

8 A. That's correct.

9 Q. Were there any other goals that DPS had in
10 developing this application?

11 A. Not to my knowledge, no.

12 Q. Did DPS consider the length of time it would
13 take an applicant to complete this application?

14 A. Not to my knowledge.

15 Q. Can you look at the bottom of the box, the box
16 at the top of the page, the last --

17 A. The bottom of the box at the top of the page?

18 Q. There's some information that's enclosed in a
19 box.

20 A. You're going to have to help me with that.

21 Q. Okay. Well, I'm looking at --

22 A. If you'll point to that I'll read the
23 information.

24 Q. I'm looking at the last line, and it says,
25 "Father's last name and mother's maiden name." Do you

1 see that?

2 A. So the heading of the box says, "Applicant
3 information and contact information" at the top of the
4 box?

5 Q. Yes.

6 A. Okay. So it says, "Father's last name"?

7 Q. Yes.

8 A. Yes.

9 Q. And "Mother's maiden name" on that same line.

10 A. I see that.

11 Q. Are those two pieces of information on your
12 current application for an EIC?

13 A. I believe so.

14 Q. What's the purpose of asking applicants for
15 their mother's maiden name?

16 A. It's part of the information that we were --
17 that we collect.

18 Q. What does DPS do with that information?

19 A. We use that to verify the applicant's
20 identity.

21 Q. How do you -- how do you use the mother's
22 maiden name to verify the applicant's identity?

23 A. That would depend on the applicant. I mean,
24 some applicants, they -- they don't have a detailed set
25 of identity documents, and they may bring us a -- they

1 may bring us their birth certificate. And that would
2 have their mother's maiden or it could have their
3 mother's maiden name on it.

4 Q. So is it your testimony that you asked for
5 this information to check it against underlying
6 documents that might also have the mother's maiden
7 name?

8 A. Yes.

9 Q. And is it the case that some applicants might
10 present documents that don't have their mother's maiden
11 name?

12 A. That could be the case.

13 Q. And they're still required to fill out on this
14 application their mother's maiden name, correct?

15 A. Yes.

16 Q. For those applicants is there any purpose in
17 gathering that information?

18 A. Not to my knowledge.

19 Q. Is there -- can you tell me the purpose of
20 asking for the father's last name?

21 A. It's the same purpose. It's a -- it helps us
22 establish who the individual is.

23 Q. Is the father's last name on any of the
24 underlying documents that an applicant might present?

25 A. It could be.

1 Q. Which documents?

2 A. Well, again, that would be the birth
3 certificate. And there may be -- there may be other
4 documents. It -- it would depend on the individual and
5 what they provide.

6 Q. And when you -- when you do the verification
7 of the application with the underlying documents, are
8 you merely checking that the names match or are you
9 doing some other sort of check on a DPS database?

10 A. No, we don't -- we don't check anything on DPS
11 database. We make sure the documents that are
12 presented, they match. And our term, colloquialism, is
13 to connect the dots for the person's identity.

14 Q. So you're -- and this -- this box that we're
15 looking at, is this filled out by the applicant?

16 A. Yes.

17 Q. So you're verifying that the applicant writes
18 down the same name as is on their underlying
19 documentation; is that correct?

20 A. No, I don't understand your question entirely.
21 It's -- the applicant presents the form. I mean, if
22 the applicant isn't able to, somebody else may fill it
23 out for them. It's -- sometimes it's not uncommon for
24 the children to fill out the information and provide
25 it.

1 Q. Okay. But what you're checking for is that
2 the name matches the underlying documentation if the
3 name is on the underlying documentation; is that
4 correct?

5 A. It's one of the things we check for.

6 Q. Is there anything else you check for?

7 A. In this block of information here?

8 Q. Well, right now just with regard to that line,
9 the father's last name and the mother's maiden name.

10 A. I don't believe so.

11 Q. Can you look at -- in that same box that we
12 were just talking about. Do you see there's some lines
13 that ask for a physical description, such as eye color,
14 hair color, height, and weight?

15 A. Yes.

16 Q. What is the purpose of requesting information
17 about the physical characteristics of applicants?

18 A. 521.143 allows the department to gather a
19 brief physical description of the applicant.

20 Q. And what do you do with that information?

21 A. We enter it into the database. That's it,
22 into our database for election certificates.

23 Q. Do applicants complete the physical
24 description themselves?

25 A. Yes.

1 Q. Is any of that -- is any of the information
2 describing the physical description of an applicant
3 included on the face of an EIC?

4 A. No.

5 Q. Are DPS employees required to do some sort of
6 visual check to ensure the physical description written
7 matches the person standing in front of them?

8 A. We don't have a scale in the office to make
9 sure their weight is right.

10 Q. Do they do any other sort of visual check?

11 A. Just a brief check.

12 Q. And did you say you enter this data into an
13 EIC database?

14 A. The EIC information is kept in our -- it's a
15 sub-compartment of our driver license system database.
16 It's a separate -- it's accessed through our DLS
17 computers, but it's a separate database.

18 Q. Is that database searchable?

19 A. Yes.

20 Q. Is it searchable by different features,
21 different fields?

22 A. I don't understand your question.

23 Q. Presumably -- what information is captured in
24 your database?

25 A. I think the name; social security number, if

1 they have; address, that type of information that's
2 depicted on the box.

3 MR. KEISTER: Can you speak up a little
4 more?

5 MR. BRAZIL: You keep getting more and
6 more quiet.

7 MR. KEISTER: Could you try and keep your
8 voice up, please?

9 THE WITNESS: I'll work on it.

10 MR. BRAZIL: Thank you.

11 THE WITNESS: The -- I have a problem
12 modulating my voice. It's either too loud or not loud
13 enough.

14 MR. BRAZIL: Can't be too loud for my
15 ears.

16 THE WITNESS: I didn't want to be accused
17 of yelling at anybody.

18 MR. FREEMAN: She's tough.

19 THE WITNESS: It's nothing personal.

20 Q. (BY MS. MARANZANO) Is -- is the EIC database
21 searchable by race?

22 A. I don't know.

23 Q. What is the purpose of asking an applicant for
24 their race on the --

25 A. The department --

1 Q. I'm sorry. I was just going to clarify -- on
2 the EIC application?

3 A. The department gathers -- just part of the
4 demographic information that we gather. We gather a
5 lot of information.

6 Q. And what do you do with that information?

7 A. Put it in the database.

8 Q. Is the -- is the race of the applicant
9 included on the face of the EIC?

10 A. No.

11 Q. And once this information is gathered in your
12 database what's done with that information?

13 A. To my knowledge -- well, the information is
14 verified at -- at our headquarters by our license and
15 records service as part of the issuance process. And
16 what -- what the LRS, license and records service,
17 people do is they review the DL-14C, they review
18 whatever other documents that have been presented by
19 the applicant and scanned. And then based on the
20 documents scanned, they do a quality assurance check to
21 make sure that the dates, the birthdays, match up and
22 the Social Security numbers match up if it's been
23 presented, and then they determine if it's a valid
24 issuance. But -- but they don't they don't verify
25 race. That's not part of the issuance process.

1 Q. So is there -- is there any purpose for asking
2 for it on the EIC application?

3 A. Just that it's part of the information that we
4 collect. It's -- because you have to remember that --
5 that the election identification certificate process
6 mirrors or roughly matches the process that we go
7 through in order to issue a driver license or an ID
8 card. And we did that in order to not have to -- in
9 order not to have to go back to retrain all
10 1,800 driver license employees for a special way to
11 issue an EIC. As much as we could we wanted to keep
12 the procedures to issue an EIC as close to the
13 procedures that we use to issue a DL, driver license,
14 or an ID card.

15 Q. So keeping the -- keeping the application as
16 similar as you could to the application for a driver's
17 license was primarily for the convenience of the DPS
18 employees?

19 A. I wouldn't say it was for the convenience of
20 the DPS employees. What it allowed us to do is it just
21 meant that we didn't have to go back and retrain them.
22 We have 1,800 employees spread across 254 counties in
23 the State of Texas. It's extremely difficult for us to
24 get them all together to train.

25 Q. So was there any training done on EICs?

1 A. Yes.

2 Q. So you did retrain the DPS employees?

3 A. It wasn't a retraining.

4 Q. Well, would --

5 A. We provided initial training when we were --
6 the department was asked to -- to do EICs. And then
7 that -- it was before my time, but I believe it was in
8 2011. And there were -- there were training -- there
9 was training that took place either by WebEx or in
10 person depending on where the driver license customer
11 service representatives, or CSRs, were in relation to
12 the trainers.

13 And then when we were asked to -- when we
14 were asked to issue EICs in June there were some
15 WebExes, training WebExes around that time to refresh
16 the tenured employees who had been working for a while.
17 But it's part of our new employee training. I don't
18 know if I answered your question or not.

19 Q. I think you did.

20 A. Okay.

21 Q. Turning back to the application for a moment.
22 When developing this application did DPS consider that
23 asking for numerous pieces of personal information
24 might discourage individuals from applying for an EIC?

25 A. DPS asked for the information that we're

1 allowed to ask for under the state -- under the admin
2 code.

3 Q. So were you -- when developing this
4 application, DPS included all information that they
5 were permitted to ask for; is that correct?

6 A. DPS included the information that we were
7 permitted to ask for relevant to elections. So, for
8 instance, somebody who's here on a Visa, they're not
9 eligible to vote. But we don't have for that because
10 they're not eligible to vote. They can't get an EIC.

11 Q. Okay. So am I understanding you correctly
12 that you ask for all information that was relevant to
13 elections that you were permitted to ask for?

14 A. As far as I know.

15 Q. And there was not consideration given to
16 whether the information you were requesting was
17 necessary to determine eligibility for an EIC; is that
18 correct?

19 A. The information that we ask for is -- is
20 collected in order to determine the eligibility. And
21 also it's for administrative purposes. We have to have
22 an address to mail the card to. We have to --
23 sometimes that differs. The resident address and the
24 mailing address may be -- may be different.

25 Q. But how does physical -- the physical

1 description of a person determine's one eligibility for
2 an EIC?

3 A. It's just part of the information that we ask
4 for because we're allowed to gather a brief description
5 of applicants.

6 Q. Okay. So it does not impact whether the
7 individual is eligible for an EIC, correct?

8 A. No.

9 Q. Did DPS consider whether asking questions that
10 were not necessary for the determination of eligibility
11 for an EIC might deter individuals from applying for an
12 EIC?

13 A. Could you restate that, please?

14 Q. Did DPS consider when it was developing the
15 EIC application that requesting information from
16 applicants that was not necessary for DPS'
17 determination of whether they were eligible for an EIC
18 would deter individuals from applying for an EIC?

19 A. I -- I don't believe so.

20 Q. You don't believe that DPS considered that?

21 A. No.

22 Q. Okay. Do you see at the -- towards the bottom
23 of this application there's a different box that says
24 "Verification" at the top?

25 A. Yes.

1 Q. And there a space for a notary?

2 A. Yes.

3 Q. Does an application have to be notarized to be
4 accepted?

5 A. No.

6 Q. Okay. In what circumstances would it not need
7 to be notarized?

8 A. Well, our -- our CSRs are permitted, acting on
9 behalf of the agency, to sign in that block.

10 Q. They are permitted to sign as a notary?

11 A. They're not a notary. They're -- they're an
12 authorized officer of the State of Texas.

13 Q. Okay. So they're -- but they're permitted to
14 sign in the slot for notary public.

15 MR. KEISTER: Object to -- object to
16 form, misstates the previous testimony and the state's
17 form.

18 Q. (BY MS. MARANZANO) Is that correct?

19 A. They sign the block that says -- that says,
20 "Notary and other or authorized officer." Do you see
21 that?

22 Q. Yes. So they're considered an authorized
23 officer --

24 A. Yes.

25 Q. -- is that correct? Okay.

1 And if an individual was applying for an
2 EIC at a county office --

3 A. Uh-huh.

4 Q. -- would -- would this box be filled out by a
5 county employee?

6 A. Yes. It would be filled out by the county
7 employee who was processing the application.

8 Q. And so in every office that issues EICs, is
9 there somebody who could sign as an authorized officer
10 or a notary public?

11 A. Well, the customer service representatives are
12 authorized to sign as an authorized officer. And they
13 crew all of our offices, so the answer is yes. And the
14 county personnel are authorized, so that answer is yes
15 too.

16 Q. And how about the mobile units? Is there
17 somebody who could sign -- somebody who staffs the
18 mobile units who could sign in this box?

19 A. Yes.

20 Q. And who's that?

21 A. It would depend on who's crewing the mobile
22 unit. If a DPS employee was crewing the mobile unit,
23 then they would sign. Or if somebody from the
24 Secretary of State's office was crewing the mobile unit
25 and there was also not a DPS employee there, then they

1 could sign.

2 Q. Does -- does the applicant have to show any --
3 anything additional to the authorized officer other
4 than the underlying documents that they're presenting
5 for the EIC for this verification?

6 A. Anything additional?

7 Q. Uh-huh.

8 A. I don't believe so.

9 Q. Okay. Has DPS received any feedback from EIC
10 applicants about the application?

11 A. We receive feedback from customers.

12 Q. What -- what has that feedback consisted of?

13 A. The DL-14C specifically?

14 Q. Yes.

15 A. Not to my knowledge. I'm sorry.

16 Q. Okay. Has DPS solicited any feedback from
17 applicants about the DL-14C?

18 A. Customers who come to our offices can submit
19 feedback, and they could submit it either in person at
20 the office -- they have a box they can put it in. They
21 can do it that way. Or they can either make a phone
22 call to our office or they can submit it online.

23 Q. So there are ways a customer could submit
24 feedback, but has DPS specifically solicited any
25 feedback from EIC applicants about the application?

1 A. Not to my knowledge.

2 Q. Has DPS solicited -- well, has DPS received
3 any feedback from DPS employees about the
4 application -- about the DL-14C form?

5 A. Well, we've updated the form, and the update
6 was --

7 Q. Uh-huh.

8 A. -- conducted by DPS employees. So in that
9 respect, yes. But I'm unaware of any feedback from --
10 from the field, from the field offices asking us to
11 modify the form or anything like that.

12 Q. And when you say "the field offices," are you
13 referring to individuals who are actually issuing the
14 EICs?

15 A. When I say the field office, I'm referring to
16 the 229 offices we have around the State of Texas.

17 Q. And are those the offices in which applicants
18 are filling -- completing this application and applying
19 for EICs?

20 A. Yes.

21 Q. Are drivers -- I'm sorry. Are EIC
22 applications available in Spanish?

23 A. Yes. That's a DL-14CS.

24 Q. And is that at every driver's license office?

25 A. They're supposed to keep stocks on hand, yes.

1 Q. Is that at every mobile unit?

2 A. Yes.

3 Q. And at every county office?

4 A. Yes.

5 Q. Are they available in any other languages?

6 A. No.

7 Q. Do you know when the DL-14C began to be
8 available in Spanish?

9 A. I -- I know there was a discussion about it,
10 and there may have been some e-mails between
11 JoeAnna Mastracchio and myself. And I believe the
12 timeframe was -- was in June or so, but I -- I can't
13 remember the exact date.

14 MS. MARANZANO: Can you mark this?

15 (Exhibit No. 65 marked.)

16 THE REPORTER: Exhibit 65.

17 Q. (BY MS. MARANZANO) I'm showing you what we
18 have marked for the record as Exhibit 65. Do you
19 recognize this document?

20 A. It looks like an e-mail.

21 Q. And is this an accurate copy of an e-mail that
22 you received?

23 A. My name is on it, so, yes.

24 Q. Does this refresh your recollection as to when
25 the DL-14CS was made available?

1 A. Let's see. Yes.

2 Q. When was the DL-14C made available in Spanish?

3 A. So from the document here, it looks like it
4 was sometime around 9-5-2013. That would be the 5th of
5 September.

6 Q. Why was the DL-14CS not made available in June
7 when you began issuing EICs?

8 A. I don't know.

9 Q. Are you aware of any instances in which
10 someone with limited English proficiency wanted to
11 apply for an EIC but was unable to due to the
12 unavailability of a Spanish translation of the EIC
13 application?

14 A. No.

15 Q. Is that something you would be aware of if it
16 had happened?

17 A. If it occurred within my area, the DPS regions
18 that I described to you, then I would get it through my
19 chain of command or if it -- from my subordinates. Or
20 if I got it from -- if it happened over in Steve's
21 area, then he would -- he would tell me. So I would
22 be -- eventually I would be. It might -- it might take
23 a day or two, depending on -- on how fast the
24 information was transmitted up.

25 Q. So you feel confident that if this had

1 happened, if somebody had been unable to apply because
2 the application was unavailable in Spanish, if it had
3 happened anywhere in the state you would be made aware
4 of that?

5 A. Yes, I do.

6 Q. And who is Steve?

7 A. As I mentioned previously, Steve is
8 Stephen Bell. He's the senior manager and he's
9 responsible for DPS Regions 1A, 1B, 2A, and 2B. And
10 that's roughly described as the Dallas/Fort Worth
11 eastern part of Texas and Houston.

12 Q. Do you and Stephen Bell split the state of
13 Texas or are there other individuals who are involved
14 in --

15 A. That's it.

16 Q. Okay. And his role is overseeing the driver's
17 license offices as --

18 A. He has the same duties and responsibilities
19 that I do and he exercises them over his DPS regions.

20 Q. Does he have EIC responsibilities as well?

21 A. He does have EIC responsibility.

22 Q. And what are his responsibilities with regard
23 to EICs?

24 A. He is our -- he's our logistician.

25 Q. And what does he do in that capacity?

1 A. In that capacity he was responsibility to
2 purchase all of the tubs that we used, all of the
3 screens to ensure that the computers were purchased
4 with all the peripherals, to take all that -- all those
5 different parts and configure them into sets that could
6 be -- that we now know as a mobile unit.

7 He's also responsible to track the
8 equipment so that he knows where each mobile unit is in
9 the state of Texas. He's responsible for the inventory
10 control.

11 Q. Okay. Do all driver's license offices around
12 the state have at least one employee who is fluent in
13 Spanish?

14 A. I don't know.

15 Q. Do you know how many driver's license offices
16 do not have at least one employee who is fluent in
17 Spanish?

18 A. I've never asked for that information.

19 Q. Does DPS view fluency in Spanish as a positive
20 professional attribute when hiring its employees?

21 A. It's asked for on the application for work. I
22 don't know how it's regarded.

23 Q. Has DPS made any effort to ensure that
24 Spanish-speaking employees are available to assist EIC
25 applications with limited English proficiency?

1 A. No.

2 (Discussion off the record.)

3 MR. KEISTER: You can answer.

4 THE WITNESS: Oh, okay. They were --

5 MR. KEISTER: They can chat. You just
6 answer.

7 THE WITNESS: I guess you're the
8 important one.

9 MR. KEISTER: Yes.

10 THE WITNESS: So would you mind restating
11 your question.

12 Q. (BY MS. MARANZANO) Has DPS made any effort to
13 ensure that Spanish-speaking employees are available to
14 assist EIC applicants with limited English proficiency?

15 A. Okay. So our offices are crewed by the people
16 who live around them by and large and -- and the
17 demographics of the office reflect the local
18 demographics in most instances. So I don't know if
19 we've made a special effort to transfer somebody from
20 one office to another solely based on the language that
21 they speak. But we hire people from the local area,
22 and if you go to different parts of Texas they'll speak
23 different languages, and -- and those are the people
24 that we hire.

25 Q. Does DPS have any policy about the placement

1 of employees who speak more than one language?

2 A. Not in driver license, and I don't believe DPS
3 does.

4 Q. Okay. Are DPS employees available to assist
5 EIC applicants who request assistance in completing the
6 application?

7 MR. KEISTER: Objection, vague.

8 Go ahead.

9 THE WITNESS: If a customer needs
10 assistance, then -- then our customer service
11 representatives help out the -- help the applicant,
12 yes.

13 Q. (BY MS. MARANZANO) Are all DPS employees
14 trained to help an applicant who needs assistance?

15 A. All DPS employees?

16 Q. I'm sorry. All DPS employees issuing EICs.

17 A. So the DPS employees in the driver license
18 division?

19 Q. Yes.

20 A. Okay. That's part of their new employee
21 training, yes.

22 Q. From the time that an EIC application is
23 submitted, how long does it take DPS to issue an EIC to
24 that person?

25 A. And when you say "issue," what do a mean?

1 Q. When -- when DPS is, I presume, mailing the
2 EIC to the person.

3 A. Okay. So that's two questions, and I'll
4 answer it this way. When the customer leaves the
5 office --

6 Q. Uh-huh.

7 A. -- they have what we call a transaction
8 receipt, and that enables the customer to vote right
9 away. And then the actual plastic card is -- is
10 mailed -- for driver licenses and ID cards, I checked
11 the mailing cycle yesterday. It was -- it was like
12 ten days. But in practice, election certificates are
13 mailed within five.

14 Q. Consistently?

15 A. It would depend on the number that we have and
16 what else is going on in the production run of ID
17 cards. So three -- three to five days is -- after the
18 QA process, which is three to five days, the card is
19 placed in the mail. So that could be six to ten days
20 and the card would be in the mail.

21 Q. Does DPS have a policy regarding an applicant
22 who does not have a mailing address?

23 A. Customers have to have a mailing address in
24 order to receive the card. Periodically we deal with
25 indigents and -- and the -- our -- our procedures are

1 that the applicant lists the -- if they're staying at
2 an indigent home or a shelter, to list that as their
3 address and we send the card there.

4 Q. And if a person doesn't have an address to
5 list, would they not be able to receive an EIC?

6 A. That's never come up. I don't know how to
7 answer that question.

8 Q. There's no policy -- DPS doesn't have a policy
9 about if a person doesn't have a permanent address to
10 list on their application?

11 A. Well, just for the physics of mailing the card
12 we have to have somewhere to send it.

13 Q. And there's no other delivery method that DPS
14 uses?

15 A. No, we use the US mail.

16 Q. Okay.

17 (Exhibit No. 66 marked.)

18 THE REPORTER: Exhibit 66.

19 Q. (BY MS. MARANZANO) I'm showing you what we
20 marked for the record as Exhibit 66. Can you take a
21 look at this and let me know if you recognize it?

22 A. Yes.

23 Q. What is this?

24 A. Well, the cover sheet an e-mail from Lynn
25 Hale, who's one of our trainers, to myself. It was

TONY RODRIGUEZ

5/8/2014

53

1 sent on the 26th of June 2013. And I understand this
2 to be an attachment to that e-mail; is that right?

3 Q. Do you recall receiving this document with
4 this e-mail?

5 A. No, but it's -- obviously I did.

6 Q. Can --

7 MR. KEISTER: Don't -- don't speculate,
8 Mr. Rodriguez.

9 THE WITNESS: I mean, yeah, I guess.
10 Yes.

11 MR. KEISTER: Don't guess. Either you
12 did or you didn't.

13 THE WITNESS: It's my name.

14 Q. (BY MS. MARANZANO) Can you turn to Page --
15 the page that has at the bottom "Texas" -- or
16 "TEX-048020"? I think it's -- yeah, it's the one that
17 you're on.

18 A. Yes.

19 Q. Is this a sample EIC on this page?

20 A. Yes.

21 Q. And is this the way EICs look currently when
22 they're issued?

23 A. Yes.

24 Q. What is the purpose of including the date of
25 birth on the EIC?

1 A. It's just -- it's part of what we have to --
2 we have to show their birthday for their voter
3 eligibility.

4 Q. Is the date of birth compared to the voter
5 registration list?

6 A. We don't compare it to any list.

7 Q. So why do you need to show it for their voter
8 eligibility?

9 A. Well, we compare it if they present a -- we
10 just present it on their card and --

11 Q. Is there any reason for -- for the requirement
12 that the card have the date of birth on it?

13 A. I can't recall.

14 Q. Okay. What's the purpose of including the bar
15 code that's shown on the back of the election
16 identification certificate?

17 A. The card is made from standard card stock and
18 part of the -- part of 521 says that it must be similar
19 in form and appearance to a driver license, but
20 different. And so we just used the same card stock
21 when we printed this scantron or the bar code on the
22 back. That's -- that's on our card stock and we just
23 include it on the -- we include it on the EIC.

24 Q. So this bar code is not used for scanning?

25 A. No, I don't -- I don't -- not to my knowledge,

1 no.

2 Q. Is it your understanding that 521A requires
3 that the EIC be similar to the driver's license?

4 A. Just similar in form and appearance, but
5 distinguishable from.

6 Q. Okay. And -- and so the bar code was put on
7 this because that's on driver's licenses; is that
8 correct?

9 A. We -- we use the same card stock for the --
10 for the driver license, the ID card, and for the
11 election certificate.

12 Q. Okay. So it's on the card stock?

13 A. Yeah. Yes.

14 Q. Do you see on the face of the front of the
15 card at the bottom it says, "Cannot be used as
16 identification"?

17 A. Yes.

18 Q. But the EIC is intended to serve as
19 identification for voting; is that correct?

20 A. For voting purposes.

21 Q. Is there any concern that that's confusing
22 language?

23 A. Confusing to who?

24 Q. To an individual who receives an EIC.

25 A. No. Our customer service representatives --

1 as part of their dialogue with the customer when the
2 customer comes to the office to seek service, they
3 explain that the EIC is used for -- for voting. And it
4 can be used for voting, but it's not meant to replace
5 the -- the Texas identification card.

6 Q. If an EIC applicant expressed that they wanted
7 to use an EIC as identification for another purpose
8 other than voting, would they be permitted to receive
9 an EIC?

10 A. Well, they would be advised that the card was
11 not intended for that, but that would not stop them
12 from getting an EIC.

13 Q. If an individual went to a driver's license
14 office and said, "I would like to apply for an EIC. I
15 would like to use this at my bank or in my office," is
16 it your testimony that that person would be -- that
17 the -- the EIC would still be issued to that person?

18 A. The -- what the customer service
19 representatives do is they say, "Well, the EIC can only
20 be used for voting purposes. It's not intended to be
21 an ID card," and they would -- they would explain the
22 uses -- or the purpose of the Texas ID card.

23 Q. Are you aware of instances where an EIC
24 applicant wanted to obtain an EIC for something other
25 than voting and was turned away?

1 A. And was turned away? Not to my knowledge, no.

2 Q. You're not aware of any instances?

3 A. No.

4 Q. What are the circumstances under which an EIC
5 can be canceled?

6 A. Canceled?

7 Q. Uh-huh.

8 A. Well, the -- the admin rules allow us to
9 cancel it, permits the department to cancel it. We
10 haven't canceled any EIC cards. We haven't canceled
11 any.

12 Q. Okay. So --

13 A. If -- if we found that the -- the individual
14 was fraudulent and they presented fraudulent documents,
15 I suppose that would be a reason for us to cancel it.

16 Q. Is that the only basis under which DPS would
17 cancel an EIC?

18 A. There may be others; but to be honest with
19 you, it's never come up. We've never canceled an EIC.

20 Q. As you sit here today, are you aware of any
21 other reasons that DPS would cancel an EIC, other than
22 fraudulent documents?

23 A. No.

24 Q. What are the circumstances under which you
25 would cancel an ID card, a personal ID card?

1 MR. KEISTER: Counsel, this is beyond the
2 scope of the issues for which he's designated.

3 MS. MARANZANO: Well, this is directly
4 related to the standards and procedures under which an
5 EIC may be cancelled.

6 MR. KEISTER: No. Did you say EIC? I
7 thought you said a Texas ID card.

8 MS. MARANZANO: I did say Texas ID card,
9 but I'm looking for --

10 MR. KEISTER: That's beyond the scope of
11 what he's here to testify about, and I'm --

12 MS. MARANZANO: He can still answer the
13 question.

14 MR. KEISTER: I instruct him not answer.
15 It's beyond the scope. I think we have somebody
16 designated specifically for those issues. I'm
17 instructing him not to answer.

18 MR. FREEMAN: Mr. Keister --

19 MS. MARANZANO: Mr. Keister, it's
20 improper to instruct the witness not to answer based on
21 things that are beyond --

22 MR. KEISTER: He's not going to give
23 answers about issues he's not designated on. He's here
24 to testify on behalf of DPS with these specific issues
25 and he's not going to give an opinion about issues he's

1 designated on and I'm instructing him not to answer.
2 We do have somebody else who's designated for those
3 issues. I'm not going to change my mind.

4 MS. MARANZANO: Well, you know, I can
5 cite you cases because it's absolutely improper to
6 instruct him not to answer.

7 MR. KEISTER: I'm not -- I'm not going to
8 change my mind. I'm instructing him not to answer. We
9 have other people designated for that issue.

10 MR. FREEMAN: Mr. Keister, once a witness
11 has been designated --

12 MR. KEISTER: I'm not --

13 MR. FREEMAN: Please let me finish
14 talking.

15 MR. KEISTER: I'm not changing my mind.

16 MR. FREEMAN: Sir, let me finish talking.

17 MR. KEISTER: Sir, no. There's no reason
18 to have this discussion. I've instructed the witness
19 not to answer anything beyond what he's designated here
20 for.

21 MR. FREEMAN: If he has personal
22 knowledge, it is entirely proper for him to answer
23 Ms. Maranzano's questions. I can cite you a half dozen
24 cases. If you want us to call the judge --

25 MR. KEISTER: If you want to call the

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1 judge, call the judge.

2 MR. FREEMAN: 30(b)(6) deposition.

3 MR. KEISTER: If you want to call, it's
4 up to you. But I've instructed him not to answer.
5 That is my --

6 MR. FREEMAN: You simply don't care about
7 the law in this area. Is that your response?

8 MR. KEISTER: Do you have any other
9 questions?

10 MS. MARANZANO: I think for the moment
11 we'll continue, and we'll consider what to do.

12 MR. KEISTER: Okay.

13 Q. (BY MS. MARANZANO) Are you following your
14 counsel's instruction not to answer that question?

15 A. Yes.

16 Q. Can you tell what the process is for
17 cancelling an EIC?

18 A. We've never gone through it. I couldn't
19 speculate.

20 Q. Does DPS have any policies for the process for
21 cancellation of an EIC?

22 A. The admin rules merely say that it can be
23 done.

24 Q. And has DPS developed any policy by which they
25 would they would follow to cancel an EIC?

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1 A. No.

2 Q. How is an EIC holder notified of cancellation,
3 if it occurs?

4 A. I don't know because we haven't developed any
5 policies for it -- or procedures. Excuse me.

6 Q. Okay. To obtain an EIC does an applicant have
7 to present documented proof of identity and proof of
8 citizenship?

9 A. Yes.

10 Q. And does your website state that applicants
11 need to prove identity and citizenship?

12 A. Our website provides the information to the
13 document they need to bring with them, yes.

14 Q. Do you train DPS employees issuing EICs that
15 applicants need to prove identity and citizenship?

16 A. That's part of their training as new
17 employees, yes.

18 Q. You train county employees who are issuing
19 EICs that applicants need to prove identity and
20 citizenship?

21 A. Yes.

22 Q. Can a non-citizen obtain a Texas driver's
23 license?

24 A. Yes.

25 Q. Can a non-citizen obtain a Texas personal

1 identification card?

2 A. Yes.

3 Q. Does a voter registration applicant need to
4 prove citizenship to become a registered voter?

5 A. Registration is done at the Secretary of
6 State. I don't know how they handle it.

7 Q. Okay.

8 MS. MARANZANO: This was previously
9 marked.

10 Q. (BY MS. MARANZANO) I'm showing you what has
11 been previously marked as Exhibit No. 38.

12 Do you recognize this document?

13 A. Yes.

14 Q. What is this document?

15 A. This is an excerpt from our administrative
16 code. I refer to them as admin rules, yes.

17 Q. How was this regulation developed?

18 A. This regulation is derived from the statute,
19 521.

20 Q. Can you take a look at 15.181, subpart C,
21 subpart 1?

22 A. Okay.

23 Q. And do you see that says, "An applicant must
24 be a registered voter in the state and present a voter
25 registration card issued to the individual"?

1 Did I read that correctly?

2 A. It has colon, semicolon, or; but yes.

3 Q. Right. If a person -- if an EIC applicant
4 says that she is a registered voter, does DPS do a
5 check to confirm that?

6 A. There's no way for us to check. No.

7 Q. Does the applicant need to present a voter
8 registration card?

9 A. Yes. If they don't have a voter registration
10 card, they need to be eligible to vote and then they
11 have to -- they can apply for a voter registration card
12 in the office as part of their application for an EIC.

13 Q. What about if an applicant states that she is
14 already a registered voter but she doesn't have the
15 voter registration card with her?

16 A. She can apply in the office.

17 Q. So she doesn't need to present her voter
18 registration card when she applies?

19 A. It says here, "and submit an application for
20 voter registration."

21 Q. Would a voter who is already registered to
22 vote but doesn't have a voter registration card with
23 her have to reapply to register to vote?

24 A. Yes. They would submit the paperwork.

25 Q. Okay.

1 A. Actually, it's just a check on the box.

2 Q. Check on which box?

3 A. Are you eligible -- I'm sorry. Exhibit 64,
4 the DL-14C dated December 2011. "Are you eligible and
5 registering to vote today?"

6 Q. So the applicant would check that box yes or
7 no?

8 A. Yes.

9 Q. But if the -- if an applicant is already
10 registered to vote but doesn't have her card with her
11 or forgot her card, is it your testimony that that
12 applicant would re-register to vote when they applied
13 for an EIC?

14 A. They would check the box. We would send that
15 to the Secretary of State; and they would do whatever
16 they do with it, enter it in their database or update
17 their database, however they do that. I'm not familiar
18 with that.

19 Q. Okay. So I guess what I'm trying to figure
20 out is: If an applicant does haven't a voter
21 registration card on her --

22 A. Right.

23 Q. -- is she prohibited from applying for an EIC?

24 A. No.

25 Q. Okay. Can you take a look at 15.182, which is

1 on that same page.

2 A. Uh-huh.

3 Q. -- on Exhibit 38.

4 How was this list of underlying
5 documentation developed?

6 A. So this -- this roughly corresponds with the
7 other information that we collect as a matter of course
8 under 6 check 521.143, but it's specific to -- it's
9 specific to voter -- voting, as I mentioned before.

10 Q. And when you talk about the information you
11 collect, you're referring to the underlying
12 documentation listed in 15.182?

13 A. Yes. You talking about the one piece of
14 primary identification?

15 Q. Right. And then it goes on to the next page.

16 A. Yes. And then it goes into primary
17 identification; and it goes all the way down to B-B on
18 the next page, yes.

19 Q. Yes.

20 Did DPS consider that the population
21 applying for an EIC might have different access to the
22 documents than the population of -- than the population
23 applying for a Texas driver's license?

24 A. Different access to the documents?

25 Q. Uh-huh.

1 A. I --

2 Q. Did DPS consider that the population of
3 individuals who are applying for an EIC might not be
4 able to obtain the underlying documentation on this
5 list as easily as the population applying for a Texas
6 driver's license?

7 MR. KEISTER: Object, form. That's vague
8 and ambiguous. And the population has not been defined
9 or established, so there's no foundation for that.

10 To the extent you can answer, you're
11 about to answer.

12 THE WITNESS: Thank you. These are the
13 documents that we collect and -- in order to identify
14 the applicant. It helps us identify the applicant.

15 Q. (BY MS. MARANZANO) Did -- when -- when DPS
16 developed this list of required underlying
17 documentation, did it consider the ease with which a
18 person might be able to obtain these documents?

19 A. Not to my knowledge, no.

20 Q. Did DPS consider whether individuals applying
21 for an EIC might be less likely to have access to their
22 birth certificates than individuals applying for a
23 driver's license?

24 MR. KEISTER: Objection, form. That's
25 vague. That calls for speculation and it assumes facts

1 not in evidence as to whether or not people applying
2 for EICs would not have access to these documents.

3 To the extent you can answer.

4 THE WITNESS: Yeah. I don't know. I
5 don't know what an individual would have to go through
6 to get the documents.

7 Q. (BY MS. MARANZANO) Do you know whether DPS
8 considered -- considered that when they developed the
9 regulation?

10 MR. KEISTER: Same objection as
11 previously.

12 Q. (BY MS. MARANZANO) To be clear, did DPS
13 consider what individuals would have to go through to
14 get the documents?

15 MR. KEISTER: Same objections.

16 THE WITNESS: We don't know what an
17 individual would have to do in order to get the
18 documents that we're required to collect.

19 Q. (BY MS. MARANZANO) Okay. Can you look at --
20 under -- under 15.182, Subsection 2, where it talks
21 about primary identification. The only form of primary
22 identification that is independently sufficient to
23 establish EIC eligibility is a driver's license or ID
24 card that has been expired for more than 60 days but
25 less than two years, correct?

1 A. Where does it say that?

2 MR. KEISTER: Counsel, I think we're
3 missing something. It looks Page 2 is missing.

4 THE WITNESS: Oh, yeah. It goes from
5 Page 1 to Page 3.

6 MS. MARANZANO: I think that we referred
7 to the exhibit as it was introduced in -- it's in this
8 binder.

9 THE REPORTER: Off the record.

10 (Discussion off the record.)

11 THE REPORTER: Back on the record.

12 Q. (BY MS. MARANZANO) So we were looking at
13 15.182, Subsection 2 where it talks about a primary
14 identification.

15 A. Yes.

16 Q. And is the only form of primary identification
17 that's listed here, a Texas driver's license or
18 personal identification card issued to the person that
19 has expired for 60 days and is within two years of
20 expiration date -- that's the only form of primary
21 identification, correct?

22 A. Or an ID card. A driver license or an ID card
23 are accepted as primary forms of identification within
24 the -- within the parameters that you've laid out here,
25 the 60 days to two years of expiration.

1 Q. Okay. And does a driver's license that has
2 been expired for more than 60 days but less than two
3 years establish citizenship?

4 A. No.

5 Q. Is it nonetheless sufficient to obtain an EIC?

6 A. It's sufficient to prove that the individual
7 is who they say they are.

8 Q. So would an individual who presented a
9 driver's license that had been expired somewhere
10 between 60 days and two years also have to show
11 documentary proof of citizenship?

12 A. They may. What would happen is that the --
13 the applicant would come to the office and they would
14 present the card and as part of the -- as part of the
15 issuance process for EICs, then the customer service
16 representative would look at the driver license
17 information and citizenship information is contained
18 under that tab.

19 Q. Okay. So that the -- the DPS employee would
20 look at a database?

21 A. Well, now it's our driver license system.

22 Q. Okay.

23 A. So when you -- when you come to an office
24 that -- you know, you'll have somebody and they have
25 their computer; and all of our driver license

1 information is contained in our system. So there's the
2 driver licenses, the ID cards, then there's a separate
3 tab for election certificates.

4 Q. Okay. So the driver's license database
5 contains information about citizenship?

6 A. Yes.

7 Q. And is that for all individuals who have
8 received a driver's license?

9 A. Yes. Or an ID card, yes.

10 Q. That was my next question. So an ID card
11 holder would have that same information in the
12 database?

13 A. Yes.

14 Q. So if an individual had an ID card that was
15 expired for between 60 days --

16 A. Same parameters you've laid out in here.

17 Q. Two years?

18 Would that individual -- would the DPS
19 employee check the database to determine if that
20 individual is a US citizen?

21 A. Yes.

22 Q. And so if an individual had a driver's license
23 or ID card that had been expired between 60 days and
24 two years and did not have additional documentary proof
25 of citizenship, would that individual be able to obtain

1 an EIC?

2 A. I need to see -- can you restate that to make
3 it a little bit more clear for me?

4 Q. If an individual had a -- had ID that was part
5 of this primary identification --

6 A. Uh-huh.

7 Q. -- either a Texas driver's license or an ID
8 card that had expired somewhere between 60 days and two
9 years but did not have any additional documentary proof
10 of citizenship, is that person able to obtain an EIC?

11 A. The answer to that question is it would
12 depend, and it would depend on what the entry is in the
13 driver license system.

14 Q. And what -- what would --

15 A. There a box that just says --

16 MR. KEISTER: Let her complete ask her
17 question.

18 THE WITNESS: Sorry.

19 Q. (BY MS. MARANZANO) What would it depend on?

20 A. It would depend on if the box that said, US
21 citizen, yes/no.

22 Q. Okay. So if the person was a citizen and DPS
23 could confirm that, they would be able to apply for an
24 EIC?

25 A. Yes.

1 Q. If the person was a citizen and didn't have --
2 did not have documentary proof of citizenship, would
3 they be able to apply for an EIC?

4 A. I would need to see what other documents they
5 presented.

6 Q. Okay.

7 MS. MARANZANO: Do you do you want to
8 take a few minutes for a break?

9 MR. KEISTER: I do.

10 MS. MARANZANO: Okay. Let's go off the
11 record.

12 THE REPORTER: Off the record.

13 (Recess from 10:32 a.m. to 10:46 a.m.)

14 THE REPORTER: Back on the record.

15 THE WITNESS: So I had previously
16 referred to the rule inaccurately. When I said that we
17 were allowed to collect identification information
18 under 521.143, that's not an accurate statement. It's
19 521.142.

20 Q. (BY MS. MARANZANO) Thank you for the
21 clarification.

22 A. I apologize for that.

23 MS. MARANZANO: And before I get started
24 asking questions, I just want to read for the record
25 the citations that establish the proposition that we

1 talked about, that it's improper to instruct a witness
2 not to answer questions beyond the scope of what he's
3 been designated for. McMahan versus Presidential
4 Airways, Inc., 2006, US District Lexis 4909, middle
5 District, Florida 2006. Push Lackey versus Reyes
6 (phonetic), 2014 US District Lexis 14278, District, New
7 Mexico, 2014. Badger versus Walmart Stores, Inc., 2013
8 US District Lexis, 91216, District, Nevada, 2014.

9 And I want to note for the record that
10 these all cite Moore's Federal Practice, and they cite
11 other decisions in them. And so we would appreciate if
12 you'd take a look and consider your position.

13 MR. KEISTER: Do you have copies of those
14 cases?

15 MS. MARANZANO: We have copies of
16 excerpts, which we can provide to you.

17 MR. KEISTER: Thank you.

18 MS. MARANZANO: Okay.

19 Q. (BY MS. MARANZANO) And before the break, we
20 were talking about what has been -- what has been
21 entered into the record as Exhibit No. 38.

22 Can you look at 15182?

23 A. I'm sorry. 15 --

24 Q. 182.

25 A. Yeah.

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1 Q. And we were talking about documents that
2 established citizenship before the break.

3 Can you look at the secondary
4 identification items, which is subpart 3 under 15182?

5 A. I see that.

6 Q. Do you know if an original or certified copy
7 of a court order with name and date of birth indicating
8 an official change of name or gender, which is listed
9 as subsection 3 -- I'm sorry. -- section C under 3.

10 Does that establish citizenship?

11 A. No.

12 Q. If an individual was to -- well, strike that.

13 Can you look at the list of supporting
14 identification?

15 A. Paragraph 4?

16 Q. Yes.

17 A. Yes.

18 Q. How many of these documents that are listed
19 here establish citizenship?

20 A. Let's see.

21 MR. KEISTER: Objection, form. That
22 calls for a legal opinion and legal conclusion.

23 You can answer.

24 THE WITNESS: To my knowledge, I only
25 believe it would be 2.

1 Q. (BY MS. MARANZANO) And is it --

2 A. Well, I stand corrected. To my knowledge, it
3 -- two, three, four -- I believe it would be -- I
4 believe it would be 4.

5 Q. Four?

6 A. Yes.

7 Q. And is it the case that a person, an EIC
8 applicant can present one piece of secondary
9 identification and two pieces of supporting
10 identification under the regulation under 15182?

11 MR. KEISTER: Objection, vague. For what
12 purpose? Has it has been stated?

13 Q. (BY MS. MARANZANO) Can you look at 15182,
14 Subsection 1, part C?

15 A. Yes. Yes.

16 Q. So a requirement to obtain an EIC is that an
17 applicant must present one of these combinations of
18 underlying documentation; is that correct?

19 A. Yes.

20 Q. And is one of the combinations one piece of
21 secondary identification plus two pieces of supporting
22 identification?

23 A. Yes.

24 Q. If an individual presents the secondary
25 identification that we just talked about, Subsection C,

1 the change of name or gender, and supporting
2 identification that does not establish citizenship,
3 would that person have to show additional proof of
4 citizenship?

5 A. They may be required to, yes.

6 Q. And is that prescribed by the -- by the
7 regulation, that that individual would have to show
8 documentary proof of citizenship?

9 A. The applicant has to -- has to be a U.S.
10 citizen, and they have to be able to show that.

11 Q. And -- and what is that requirement based on?

12 A. What's the requirement based on to -- to show
13 that you're a US citizen?

14 Q. Uh-huh.

15 A. I believe it's the voting code.

16 Q. What -- do you know what section of the voting
17 code?

18 A. I'm not familiar with that, no.

19 Q. And are you -- just to be clear, are you
20 saying that the voting code requires that individuals
21 who are voting are citizens?

22 A. Okay. I don't know what the voting code is.
23 I'm not a voting code guy.

24 Q. Right. Right. I was just trying to
25 understand your answer.

1 A. Yeah. I guess I was trying to understand your
2 question. If you would restate it, I'll try and answer
3 it better.

4 Q. Okay. Perfect.

5 I'm trying to determine what gives DPS
6 the authority to require individuals to show
7 documentary proof of citizenship in addition to the
8 documents that are listed under 15182.

9 A. Okay. These are -- these are supporting forms
10 of identification and -- how can I explain this? This
11 will be longer than a yes or no.

12 The reason they're supporting forms of
13 identification is that -- is that the farther that the
14 applicant gets from the driver license or the ID card,
15 which are primary forms of identification, and the --
16 the customer has already shown a lot of documents to
17 prove who they are and their citizenship and all that's
18 captured -- and those are primary documents, right? So
19 the farther we get from those primary documents, then
20 you have to make up for that in -- in quantity of
21 documents.

22 So there may be other documents that are
23 required in order to -- to have the applicant show who
24 they are in order for us to be able to -- to verify
25 their identify or to issue the card. The same for --

1 well, we're doing the citizenship, but the same for a
2 driver license or anything else. So we recognize that
3 there are -- there are customers who may not have some
4 forms of ID and then that's why we ask for supporting
5 identification and then those supporting
6 identification, it will depend on the customer and it
7 will -- it will depend on what they have.

8 I mean, it's really -- that part is done
9 on a case-by-case basis depending on what the customer
10 presents. I mean, it's an imprecise answer; but --

11 Q. Is this regulation that we're looking at what
12 establishes the criterion an applicant for an EIC would
13 have to present to obtain an EIC?

14 A. It lists -- it provides a list of documents.
15 But I mean, if you -- if you look at B-B, it says,
16 "Document may be added depending on how things change
17 in the future."

18 Q. Does this -- this regulation that we're
19 looking at --

20 A. These rules, the admin rules?

21 Q. Right. The Exhibit 38.

22 A. Okay. Yes.

23 Q. Does any part of this regulation require DPS
24 to confirm U.S. citizenship?

25 A. Well, we don't confirm US citizenship. The

1 customer presents us with -- the customer presents us
2 with their voter registration card, which is issued by
3 the Secretary of State; or if they don't have it, they
4 apply -- they can reapply. But there's -- and if they
5 have a driver license or an ID card, we can check in
6 the driver license system to see if they have proved
7 it.

8 I -- it would depend on what they give
9 us. It would -- we have a network -- you know, we have
10 customer service representatives. They make -- based
11 on the training that we've given them, the parameters
12 that we've established, they make -- they have
13 discretion to exercise latitude. And we tell them to
14 issue -- you know, err on the side of issuance. I
15 haven't been involved in any of these. I mean,
16 ultimately, if there were problems, I would see it
17 based on my responsibilities as a senior manager; and I
18 would help resolve those. I haven't been involved in
19 anything like you've described. I'm sorry.

20 Q. Is the discretion that is given to the DPS
21 employees who are issuing EICs, is that discretion
22 limited by the parameters of the regulation?

23 A. No. It's -- I don't believe so. The --
24 the -- it's a permissive. I'm sorry. We -- the
25 regulation establishes a certain set of guidelines,

1 okay; and we have procedures. And then based on their
2 best judgment and reviewing documents and -- you know,
3 all of our CSRs review hundreds of documents, then they
4 issue; and we've instructed them to be -- to be liberal
5 in their issuance of EICs.

6 Q. Does any part of this regulation require that
7 an EIC application must present documentary proof of
8 citizenship?

9 A. Well, any part of the regulation?

10 Q. Uh-huh.

11 A. It says here, "U.S. citizenship or
12 naturalization papers."

13 Q. As one --

14 A. Secondary identification, D.

15 Q. Okay. And if an individual presented,
16 instead, the Subsection C as secondary identification?

17 A. Original or certified copy of a court order
18 with the name, date of birth, indicating the official
19 name change?

20 Q. Uh-huh.

21 A. That doesn't indicate citizenship.

22 Q. And if that person presented that document
23 with supporting documentation that also did not
24 establish citizenship, would that person have to
25 present independent documentary proof of citizenship?

1 A. If I understand your question correctly -- and
2 I'll try and restate it.

3 So a customer comes to the office. They
4 have a certified copy of the court order, okay, that
5 provides a name change and they don't have any other
6 documentation that establishes that they are a United
7 States citizen?

8 Q. Yes.

9 A. They would have to show that documentation.

10 Q. And is that a requirement that's set out in
11 this regulation?

12 A. I don't know. I would have to -- I would have
13 to run through it.

14 Q. Okay. Do you know if it's set out in any
15 other DPS regulation?

16 A. Not to my knowledge. I don't know.

17 Q. Can you look at -- under "Secondary
18 Identification," which is Subsection 3, the first one
19 listed under A, the birth certificate?

20 A. Yes.

21 Q. How much does it cost to obtain a certified
22 copy of a birth certificate?

23 A. I don't know.

24 Q. You have no idea?

25 A. No. My mother gave me mine, so I --

1 It's old, but it's mine.

2 MS. MARANZANO: We're going to need to --

3 Let's go off the record for one second.

4 THE REPORTER: Off the record.

5 (Discussion off the record.)

6 THE REPORTER: Back on the record.

7 Q. (BY MS. MARANZANO) Okay. Can you look at
8 15183?

9 A. Can I --

10 Q. Oh, sorry.

11 A. I'm happy to. Give me a second.

12 Q. It's Exhibit 38.

13 A. Okay.

14 Q. Okay. Subsection A, subpart 3.

15 A. Subpart 3. Fingerprints. Yes.

16 Q. Whose decision was it to include a
17 fingerprinting requirement for EIC applicants?

18 A. That, I don't know. I do know that it's no
19 longer required, and it hasn't been required -- I'm not
20 sure what the date is. It was -- it was early -- it
21 was early in the EIC efforts, so that would put it late
22 summer or early fall of last year. But the decision
23 was made that -- not to collect them; and actually,
24 it's almost a moot point on the equipment that we have.
25 We've updated the equipment in your driver license

1 offices; and if you try and issue an EIC, it's not even
2 a prompt. So to explain, if -- for the driver license
3 issuance, there's a series of screens that the CSR goes
4 through; and it asks the individual -- you know, our
5 CSRs, you know, get this information and ask the
6 customer for that. And for a driver license or an ID,
7 then the -- they're prompted for the -- for the
8 fingerprints.

9 But for an EIC, that prompt doesn't come
10 up; and our mobile systems and the systems that we have
11 in the counties don't have -- we didn't even buy the
12 thumbprint scanners to afford them, so we don't collect
13 them.

14 Q. Do you know what the purpose of the original
15 requirement to do fingerprints was?

16 A. I could speculate. And my speculation is that
17 it we collect thumbprints and fingerprints as part of
18 the issuance for driver licenses and for ID cards, we
19 try to make this process go the same way as others. We
20 just included that in there.

21 Q. And why did DPS decide to suspend that
22 requirement?

23 A. DPS was directed not to by the Secretary of
24 State.

25 Q. Did they explain their reasoning?

1 A. I didn't ask. I certainly didn't ask.

2 Q. Did DPS have any concern when it was
3 collecting fingerprints that that would deter EIC
4 applicants from applying for an EIC?

5 A. I don't -- I don't -- I don't recall, no.

6 Q. How did you communicate the change from
7 collecting fingerprints to not collecting fingerprints
8 to the public?

9 A. Sure. To the public?

10 Q. Uh-huh.

11 A. And when you say "you," you mean DPS?

12 Q. I do mean DPS.

13 A. I don't -- I don't -- I'm unaware of anything
14 the DPS did to -- to communicate that to the public.

15 Q. Did any other state agencies communicate that
16 to the public?

17 A. They may have. I don't know.

18 Q. Did DPS put an update on its web page?

19 A. I don't -- I don't recall. It would be our
20 standard practice, but I don't recall if we did or not.

21 Q. Are you confident that no driver's license
22 offices are currently fingerprinting EIC applicants?

23 A. Well, as I've explained, we have no equipment
24 that -- we can't do it, so -- and the counties can't do
25 it and our mobiles can't do it, so the answer to your

1 question is, yes, I'm confident.

2 Q. When the fingerprinting requirement was in
3 effect --

4 A. Yes.

5 Q. -- what did DPS do with the fingerprints?

6 A. That information, along with the documents
7 that the applicant presented, were placed into the EIC
8 portion of driver -- of the driver license database,
9 which is -- that's a separate portion. It's separate
10 and distinct from the ID cards and the driver licenses.

11 Q. And what was done with that information?

12 A. It was put there. I don't think anything was
13 done with it.

14 Q. Do you still maintain the fingerprints from
15 applicants who were fingerprinted when this policy was
16 in effect?

17 A. Well, we were asked not to -- not to purge
18 anything from our database. So as far as I know,
19 whatever we may have collected is supposed to still be
20 there because of what we're doing here today.

21 Q. Is there any intention to use them in the
22 future for anything -- for any reason?

23 A. EIC fingerprints?

24 Q. Yes.

25 A. No, not to my knowledge.

1 Q. Are there any limitations on using EIC
2 fingerprints in the future?

3 A. Not to my knowledge.

4 Q. Why has DPS not changed the regulation to
5 remove the fingerprinting requirement?

6 A. That's a good question. We haven't got around
7 to updating our rules. It's as simple as that. We
8 just haven't done it, and we need to.

9 Q. Could DPS at any time decide to start a
10 fingerprinting applicants again?

11 A. In order to do that, we would have to field
12 new equipment to 229 driver licenses offices in 55
13 counties and the mobile units. So the short answer is,
14 we don't have any plans to do that.

15 Q. So there's no plans to do that, but is there
16 any impediment other than sort of logistical?

17 A. Well, we would have to rewrite the code for
18 all the computers; and that would -- that would involve
19 a significant amount of time and money. I mean,
20 it's -- we're not funded for that. That's -- we have
21 no plans to do that. We just got done fielding new
22 stuff. Why would we want to go back and change?

23 Q. Is there any legal impediment to DPS deciding
24 to fingerprint applicants at some point in the future?

25 MR. KEISTER: Object to form. Calls for

1 a legal opinion.

2 But you can answer.

3 THE WITNESS: The Secretary of State has
4 directed us not to.

5 Q. (BY MS. MARANZANO) Does the Secretary of
6 State control in any way DPS' action?

7 A. Control our action? With regard to what?

8 Q. With regard to the EIC program.

9 A. The Secretary of State, as far as the
10 execution of the program? In some ways. I mean, when
11 I'm -- by way of answering, what I would say is they're
12 the ones that directed to go -- which counties to go to
13 and which locations in those counties, and they're the
14 ones that told us not to collect fingerprints.

15 Q. Is there any requirement that you follow what
16 the SOS directs you do with regard to the EIC program?

17 MR. KEISTER: Object to form; vague and
18 ambiguous.

19 THE WITNESS: Go ahead?

20 I take my -- I take my instructions from
21 my chain of command. And what discussions that the
22 Secretary of State have and DPS senior leadership have,
23 I'm not a party to those. I'm not aware of any of
24 those.

25 Q. (BY MS. MARANZANO) And you take your

1 direction from who?

2 A. I take my direction from Paul Watkins and AD
3 Peters.

4 Q. Can you look at 15183, Subpart A, 1 and
5 then --

6 A. Subpart A.

7 Q. -- and then capital A?

8 A. Married woman. Is that what it says?

9 Q. Yes. And then a couple of sentence in it
10 says, "No name will be used that has not been
11 documented"?

12 A. Right.

13 Q. Can you tell me what that means?

14 A. It -- if you remember what I -- what I said
15 previously and I used the term, "we connect the dots."
16 So that's part of our effort to connect to dots to
17 establish someone's identify. If a woman were to come
18 to the office and she wanted to change her name and she
19 presented a marriage license and she had -- and she had
20 a birth certificate, let's say, so the marriage license
21 and the birth -- the married name -- I'm sorry. The
22 maiden name would have to match the birth certificate.
23 But if there wasn't a match, then that wouldn't be a
24 documented name change; or it could be a court order, I
25 suppose.

1 Q. Does DPS require that names -- that the name
2 of the applicant match exactly on the underlying
3 documentation that the individual presents?

4 A. Without seeing the differences, I can't answer
5 that question. I would need to see the specifics. I
6 mean, if the name was -- was Shelly on one document and
7 Mary Lou on another, that would be a problem. But we
8 would have -- I would have to see it, and I would have
9 to -- and if I couldn't make a determination, then I
10 would -- I'd ask -- I'd have to ask for advice.

11 Q. Who would you ask for advice?

12 A. Well, I mean, it would depend. We have -- we
13 have counsel. I can ask for advice from if there's a
14 problem with that.

15 Q. So am I understanding you correctly that
16 there's some discretion about the name -- how exactly
17 the names match on the underlying documentation?

18 A. Yes. But again, without seeing an exact
19 example, I'd need -- I'd need to know. I would need to
20 see that.

21 Q. Okay.

22 A. So I can't answer your question definitively.
23 I need to see -- I need to see what you're talking
24 about.

25 Q. If the names are very different on the

1 underlying documentation --

2 A. Then there's no connection.

3 Q. -- and there's no connection, what does the
4 DPS employee advise to that individual?

5 A. We -- we ask the customer to provide
6 documentation that would connect one name to the other.

7 Q. Okay. When someone appears at a driver's
8 license office and requests an EIC, what does the DPS
9 employee do, sort of each step, to ensure that that
10 individual is eligible for an EIC?

11 A. Well, so when an applicant comes to one of our
12 offices, they're greeted by one of our customer service
13 representatives; and it's -- then there's a dialogue
14 between the applicant and the CSR before any paperwork
15 is done. It's something -- it's a greeting; and then,
16 you know, what can we do for you today? And depending
17 on what the customer says, then that would lead to
18 further -- further discussion about, well, here are the
19 forms that you need to fill out and have you brought
20 the documentation. And then depending on how that went
21 and -- you know, because there's a lot of different
22 variables, then the customer could get issued their --
23 whatever document they were after.

24 Q. When a person submits an EIC application, does
25 anyone at DPS review it for completeness?

1 A. The customer service representative who
2 processes the applicant reviews it for completeness.

3 Q. Is that done on the spot while the individual
4 is still in the office?

5 A. Yes.

6 Q. And if it's incomplete, will the person have
7 an opportunity to complete it before they leave the
8 office?

9 A. The CSRs will -- will say, "You didn't fill
10 out block X and such," and then the customer is asked
11 to do that.

12 Q. Okay. Does DPS conduct any types of checks on
13 the applicants once the application is submitted?

14 A. What do you mean "checks"?

15 Q. Do they -- for example, do they check to
16 ensure that the individual doesn't have another form of
17 SB 14 compliant identification?

18 A. SB 14?

19 Q. Does the DPS employee check to ensure the
20 individual doesn't already have a driver's license?

21 A. For a driver's license, as I mentioned before,
22 the customer service representative would -- if it's a
23 Texas driver's license, we can check within our driver
24 license system or the ID card system; and we can see if
25 an if -- an ID card or a driver license has been

1 expired to the customer. I'm sorry -- has been issued
2 to the customer, not expired.

3 Q. And if there is a current driver's license
4 issued to the customer, what does the DPS employee do
5 at that point?

6 A. They say, "Ma'am, you have -- you have a
7 driver license and you can vote using your driver
8 license. You don't need -- you don't need an EIC."

9 Q. So that information is conveyed to the
10 applicant while they are in the driver's license
11 office?

12 A. Yes.

13 Q. Okay. Does DPS do any background checks with
14 the information that is obtained from the EIC
15 application?

16 A. Background checks?

17 Q. Uh-huh.

18 A. No.

19 Q. Do they check for any outstanding tickets?

20 A. No.

21 Q. Do they check against the Texas Criminal
22 Information Center?

23 A. No.

24 Q. Against the National Criminal Information
25 Center?

1 A. No.

2 Q. Do they do any immigration checks?

3 A. No.

4 Q. Do they check the United States Visitor and
5 Immigration Status Indicator Technology?

6 A. Not to my knowledge. I've never heard of
7 that.

8 Q. Do they check against the Interagency Border
9 Inspection System?

10 A. No.

11 Q. Do they check for warrants?

12 A. No.

13 Q. Have they, at any time, checked for warrants?

14 A. Driver license CSRs don't have the ability to
15 check for warrants.

16 Q. So they haven't, at any time, checked for
17 warrants?

18 A. They are able to.

19 Q. Have they, at any time, done any of the other
20 checks that we just talked about?

21 A. Not to my knowledge.

22 Q. Are law enforcement officials present at DPS
23 offices?

24 A. Well, the Department of Public Safety has law
25 enforcement officials assigned to it and there may

1 be -- it's not uncommon for highway patrol or Rangers
2 or CID to be co-located in some of our offices. Our
3 offices aren't all standalone driver license offices.

4 Q. And when an individual is applying for an EIC
5 and you said these -- these various checks are not run,
6 is some of this information nonetheless available to
7 the DPS employee, sort of -- they can see the
8 information on the screen such as outstanding tickets
9 or --

10 A. No, I don't believe so. Base on my
11 observation of the driver license system, outstanding
12 tickets and things like that aren't -- aren't
13 available.

14 Q. And is the same true for warrants?

15 A. No, we don't do warrant checks.

16 Q. So warrant checks would not be something that
17 the employee could see on the screen?

18 A. We don't have access to that, no.

19 Q. Okay. Are warrant checks done when an
20 individual is applying for a driver's license?

21 A. Not by a driver license person, no.

22 Q. Are you aware of a public perception that
23 applying for IDs at DPS offices will trigger warrant
24 checks?

25 A. I'm not aware of it.

1 Q. Do you have any concern -- does DPS have any
2 concerns that individuals will be deterred from
3 applying for EICs because they believe a warrant check
4 could be conducted?

5 A. Not to my knowledge.

6 Q. Does DPS have any concerns that individuals
7 will be deterred from applying for an EIC at a law
8 enforcement agency?

9 A. No.

10 Q. Have you heard any such concerns?

11 A. No.

12 (Exhibit No. 67 marked.)

13 Q. (BY MS. MARANZANO) I'm showing you what we're
14 marking as Exhibit 67 for the record. Can you take a
15 look at it and let me know if you recognize this
16 document?

17 A. Yes.

18 Q. Yes, you do recognize it?

19 A. Yes.

20 Q. Is this an accurate copy of an e-mail that you
21 sent?

22 A. Yes.

23 Q. Can you look down at the second paragraph,
24 there's a sentence that says, "In order to overcome
25 this, A.D. Skyler Hearne" --

1 A. Hearne.

2 Q. -- "has determined that our personnel can use
3 the regional communications centers to run a 1027 on
4 the applicants to verify their eligibility to receive
5 an EIC."

6 A. Yes.

7 Q. Did I read that correctly?

8 A. Yes.

9 Q. Can you tell me what a 1027 is?

10 A. 1027 is a police term. It's a check for
11 other -- as I understand it, it's a check for other
12 documentation. So we ask -- if you were to run a 1027
13 on me, it would come back and say that I have a dry
14 reporter license and a CHL.

15 Q. So this -- a 1027 only shows other forms of
16 identification that an individual may have?

17 A. Yes. I mean, I'm not a cop. That's how it
18 was explained to me, that's how I understand it, yes.

19 Q. And what are the forms of identification that
20 you're checking for?

21 A. Driver license, personal ID card, Texas
22 personal ID card, or a concealed handgun license.

23 Q. Only those three?

24 A. As far as I know, yes.

25 Q. And are -- are these checks still being done

1 on EIC applicants today?

2 A. Yes. I would like to point out, these --
3 these checks are done at mobile stations and at the
4 county offices. They're not done in a -- in a driver
5 license office.

6 Q. I'm sorry, can you say that one more time?

7 A. Sure. These checks, the 1027 --

8 Q. Yeah.

9 A. -- to A.D. Skyler Hearne, that's done through
10 a mobile site or through a county office. It's not
11 done in a driver license office because our employees
12 can look to see if the -- if the applicant has an ID
13 card or a driver license by looking in the driver
14 license system.

15 Q. I see. So a driver's license office does a
16 similar check substantively, but in a different way; is
17 that correct?

18 A. That's a good way to put it, yes.

19 Q. Okay. And the driver's license office, are
20 they also checking for concealed handgun licenses or
21 not?

22 A. We can't check that. But in order to possess
23 a concealed handgun license in the State of Texas, you
24 must have a driver license or a Texas ID card.

25 Q. Okay. If a DPS employee determines that an

1 applicant for an EIC has been issued a driver's
2 license, but the applicant states that she has lost the
3 driver's license, is that person eligible to obtain an
4 EIC?

5 A. Yes.

6 Q. Does that person need to surrender her
7 driver's license?

8 A. Well, if they've lost it, they can't surrender
9 it. I mean, they would -- they would fill out -- I
10 believe it's on the form right here.

11 Q. Do you want to refer --

12 A. I want to refer back to whatever exhibit that
13 y'all called the DL-14C.

14 Q. Exhibit 64. Is it in there?

15 A. There's a surrender document -- there's a
16 surrender document that they can sign where they say,
17 "I give it up, I surrender my driver license or ID
18 card."

19 Q. So the individual would complete a form saying
20 they surrendered their driver's license?

21 A. Yeah. But if they don't have it -- I mean,
22 they don't possess it --

23 Q. Is an applicant who has an out-of-state
24 driver's license required to surrender their
25 out-of-state driver's license to obtain an EIC?

1 A. No.

2 (Exhibit No. 68 marked.)

3 Q. (BY MS. MARANZANO) Can you take a look at
4 this document and tell me if you recognize it?

5 A. Yes. It looks like it's an e-mail from Amelia
6 Flores to me, October 24th.

7 Q. Is this an accurate copy of an e-mail that you
8 received?

9 A. Yes.

10 Q. Do you recall the situation that's described
11 in the e-mail?

12 A. I do. It was out of my region, but I do.

13 Q. And do you -- can you read the bottom part?

14 A. Sure.

15 Q. Do you know whether that individual who is
16 referred to in that e-mail who was told by DPS that he
17 would need to surrender his out-of-state driver's
18 license to obtain an EIC, do you know whether that
19 individual left the office without applying for an EIC?

20 A. I don't know. So that was in -- that was in
21 Steve's region, so I don't know if the -- if the person
22 left without an EIC. But -- but this discussion,
23 that -- that triggered -- that resulted in the answer
24 that I gave you. Now we know that we can't -- we can't
25 ask for out-of-state drivers to show their licenses.

1 Q. Did DPS subsequently try to contact this
2 individual?

3 A. I don't know.

4 Q. Are you aware of any other situations in which
5 DPS employees have told EIC applicants that they would
6 have to surrender their out-of-state driver's licenses
7 to obtain EICs?

8 A. I'm unaware of any.

9 Q. Would you be aware of them if that had
10 occurred?

11 A. Yes.

12 Q. Did DPS make the public aware that applicants
13 for an EIC do not have to surrender their out-of-state
14 driver's licenses?

15 A. To my knowledge, DPS never did, no.

16 Q. Are you aware of any other instances where DPS
17 employees have told EIC applicants the incorrect
18 criteria for obtaining an EIC?

19 A. It comes up from time to time. I don't recall
20 any specific instances. And, generally speaking, I
21 mean, once they're -- once it's made aware to either
22 myself or Steve Bell, the other regional senior
23 manager, we try and resolve that as quickly as we can.
24 I don't -- I don't think anything comes to mind, no.

25 Q. Can you tell me approximately how many times

1 it's come up?

2 A. No.

3 Q. Because you don't know?

4 A. Because I don't know, yeah.

5 Q. Do you -- does DPS have any concerns that DPS
6 employees are deferring individuals for applying from
7 EICs by giving out incorrect information?

8 A. Well, I mean, we have provided training for
9 the employees and we -- we do a QA/QC process on the
10 applicants. And, you know, we're concerned about
11 providing incorrect information to any customer that
12 comes to our office, not just the EIC customers.

13 Q. And the QA/QC process is done on individuals
14 who complete an application and submit it; is that
15 correct?

16 A. Yes.

17 Q. Is there a QA/QC process on individuals who
18 come into a driver's license office with a question
19 about an EIC?

20 A. There's no QA/QC, but we do keep -- we do keep
21 track of that. We refer to those as inquiries.

22 Q. Okay. Do you feel confident that the EIC
23 rules are being followed by DPS employees?

24 A. Yes.

25 Q. Do you feel confident that the EIC rules will

1 are being followed by DPS employees 100 percent of the
2 time?

3 A. Well, I mean, in any human endeavor there's a
4 margin of error.

5 Q. Who makes the final determination of whether
6 to issue an EIC applicant the temporary receipt that we
7 talked -- that you referred to earlier when they're at
8 the driver's license office?

9 A. Right. So -- and I refer to that as a
10 transaction receipt. That's the -- that's the -- the
11 person who takes the application and processes it at
12 the point of dealing with the customer.

13 Q. So is that --

14 A. The customer walks away with a transaction
15 receipt if they have satisfied all of the other -- all
16 of the requirements that we have established.

17 Q. Is that a CSR?

18 A. So a customer service representative -- and
19 when I say a CSR, I'm referring to a DPS employee who
20 works in driver license division, and there are also
21 county employees. And they may issue a transaction
22 receipt, but they're not -- they're not CSRs, they're
23 county employees.

24 Q. Okay.

25 A. Or SOS employees or HHSs.

1 Q. Okay. And the quality control check that you
2 referenced earlier --

3 A. Yes.

4 Q. -- who -- whose decision was it to do this
5 quality control?

6 A. I don't remember exactly who. I believe it
7 came out in some discussions that we had, and the issue
8 revolved around our -- around the -- the training that
9 we provided for the counties. And what we wanted to be
10 able to do was to ensure that we had the same level of
11 quality in issuing documents, whether it was a county
12 personnel or whether it was one of our own CSRs. And
13 so, as a result of that, we have -- we have a QA/QC
14 process and it's -- it's relatively quick. It goes
15 between three and five days.

16 Q. What does this process consist of?

17 A. So the -- it differs slightly from -- from
18 brick and mortar office to mobile. So I would like to
19 talk about the brick and mortar office, and if you want
20 me to I can talk about mobiles, too.

21 Q. Okay.

22 A. So the customer service representative
23 receives the documents from the customer, okay, so the
24 person comes and makes the application. They scan
25 those documents, the DL-14C, and whatever else the

1 customer is presented. And then those documents are
2 placed in the -- on the EIC -- under the EIC tab in a
3 separate database. And then the employees, or our
4 licensing and record service, I call that LRS, they
5 review the documents. They review the birth
6 certificate and they make sure that the documents are
7 legible and that there's no administrative error. And
8 sometimes, as I said, there's error in anything humans
9 do. Sometimes the CSR enters the wrong birthday and
10 the birthday doesn't match up with the -- with the
11 birth certificate. And they review those things and
12 that type of information is what they're looking at.

13 Q. What is done if DPS determines that a
14 temporary EIC was issued in error?

15 A. If a temporary EIC is issued in error and it
16 goes through our QA/QC process at the license and
17 records service, it would depend. If it's a clear-cut
18 case where the LRS people feel confident that the
19 documents either aren't accurate or they can -- they
20 can contact the office. If they can't get other
21 documents -- the customer can't provide other
22 documents, then -- then the department would issue a
23 letter from Austin headquarters to the applicant
24 explaining the reason why they aren't being issued an
25 EIC. In some cases, and I've looked at -- if it

1 requires my decision or Steve's -- Steve is the other
2 regional manager -- then the LRS reps will show them to
3 us and Steve or I will review all the documents. And
4 then, in those instances, if we -- if we issue, then I
5 write on the -- I handwrite, issue, I believe these
6 documents, I believe that, you know, there's not -- you
7 know, the names are substantially similar, or something
8 along those lines. And then that's scanned into the --
9 the EIC as part of their record. So if somebody were
10 to come back and say, "Why did you do that?", I would
11 say, "Well, the documents that were presented to me, I
12 thought they were substantial so I said to go ahead and
13 issue."

14 Q. Okay. Does DPS also conduct a quality control
15 check when an individual applies for a driver's
16 license?

17 A. Well, there's -- there's a quality control
18 check that goes on, but because we issue seven million
19 driver licenses and ID cards on an annual basis, it's
20 not as -- it's not as thorough as we do for EICs. We
21 have only issued 271 or 272 EICs. I might be -- I
22 might be one EIC off.

23 Q. And why are you doing a more thorough quality
24 control check for EICs?

25 A. Well, it's because of the -- because of the

1 attention that's been paid to it and also because we
2 have such a few number, we're able to and we want to
3 make sure we're doing the right thing.

4 Q. And I just want to make sure I understood your
5 previous testimony correctly about the check that you
6 do when an individual wants to apply for an EIC, but
7 doesn't end up filling out the application. I believe
8 you said that --

9 A. That's called an inquiry.

10 Q. Okay.

11 A. Okay.

12 Q. And so what kind of check do you do on that
13 information?

14 A. Well, there's really not a check. I can --
15 can I show you something? Does that work?

16 MR. KEISTER: Well, just let her ask
17 questions.

18 Q. (BY MS. MARANZANO) You can just answer the
19 questions.

20 A. We just -- there's really not a check. If the
21 customer presents himself and says, "I want an EIC,"
22 for instance, and in the dialogue between the customer
23 service representative and the customer, you know, "Do
24 you have a passport?" "Yep, I've got my valid U.S.
25 passport right here." "Well, sir, ma'am, you know, you

1 can use that for voting."

2 Q. And when --

3 A. Or there are other categories of -- of
4 inquiries.

5 Q. Does DPS record the names of the individuals
6 who make inquiries about EICs?

7 A. Sometimes.

8 Q. Why not all the time?

9 A. Sometimes the customer comes in and they
10 ask -- they ask a question about a free ID and we
11 explain to them what the EIC is and what it does for
12 them and what a Texas ID is and what it does for them
13 and they walk out. We don't -- we don't catch their
14 names.

15 Q. Has DPS considered trying to get all the names
16 of individuals who have questions about EICs so that if
17 follow-up was necessary, they could -- they could do
18 that, follow-up with the individual?

19 A. No.

20 Q. No, you haven't considered that?

21 A. No, we haven't.

22 Q. If DPS determines that incorrect information
23 was given to a potential EIC applicant, what are the
24 steps it takes?

25 A. Well, we -- since we don't collect anything of

1 the applicant, there's nothing we can do on that side.
2 We do -- we do counsel our CSR, and if we need to we
3 provide them remedial training to make sure they
4 don't -- they don't make the same mistake again.

5 Q. And do you give out any information to other
6 CSRs to make sure that same mistake isn't happening by
7 other DPS employees?

8 A. What kind of information? Specific to an
9 inquiry?

10 Q. If you determined that one CSR gave out
11 incorrect information, would you let everybody -- all
12 the CSRs or all the individuals who are issuing EICs
13 know about this mistake and what the correct way to
14 handle that situation is?

15 A. It would depend if I thought it was a systemic
16 problem.

17 Q. How would you determine whether it was a
18 systemic problem?

19 A. I would -- if I had the same -- the same kind
20 of issues would pop up and I would discuss it with the
21 chain of command through the regional managers.

22 Q. So if it's an issue that happens repeatedly,
23 then you'll let everybody know who is issuing EICs; is
24 that correct?

25 A. It would depend on what the issue is, but we

1 could -- I mean, there are a variety of ways we could
2 do that.

3 Q. And do you feel confident that you're --
4 you're aware of the problems that are happening
5 repeatedly?

6 A. Yes.

7 Q. What gives you that confidence?

8 A. I have -- I have routine interaction with my
9 regional managers. And if there's -- if there's a
10 problem, I know that they'll talk to me. They're not
11 shy about telling me.

12 Q. Is DPS tracking the number of EICs that are
13 issued?

14 A. Yes.

15 Q. And when did that begin?

16 A. Well, I believe it started from the beginning
17 of the program.

18 Q. Whose decision was it to track the number of
19 EICs that are issued?

20 A. I can't remember, but we thought that since it
21 was a new program, the discussion was that it should be
22 something we should keep track of.

23 Q. And do you compile reports on EICs? Is that
24 part of your responsibility?

25 A. I used to compile a report. And I -- I define

1 a report as it's a product that I get information from
2 and I -- I create and then I send it out to people. So
3 I compiled an EIC report starting in June. And first
4 we had different -- varying the cycle of the report and
5 the frequency of the report. And we stopped -- we
6 stopped with the report itself, but we still track
7 that -- we still track that information.

8 Q. When did you stop with the report?

9 A. We stopped sending the report -- and, again,
10 the report -- so in order for me to answer the
11 question, I have to give you -- so I view a report as a
12 push, okay. So I gather information, I compile a
13 report, and I push it out, I e-mail it to everybody who
14 is here. So I push you the information. We track the
15 information and the information has been tracked from
16 the beginning of the program, but now it's more of a
17 pull. And the information that we have is resident on
18 a SharePoint site that's updated -- well, I won't say
19 real time because that would be a hyperbole, but near
20 real time. And if you want the report, if you have
21 access to our SharePoint site, you can pull the report
22 that you want.

23 Q. Okay.

24 A. Or you can pull the tracking information.
25 It's not really a report.

1 Q. So let's start with talking about the time
2 when you were gathering the information --

3 A. Yes.

4 Q. -- and pushing it out. Who was sending you
5 that information?

6 A. Well, I received the information from the
7 regional managers.

8 Q. Okay.

9 A. And they received it from -- from the CSR or
10 from their office supervisors.

11 Q. And at the -- at the beginning, did you
12 receive information twice a day; is that correct?

13 A. I know that I was sending -- maybe. Things
14 were things moved very quickly, so I received the
15 information throughout the day. There was -- there was
16 a period of time when I was making a daily EIC report.

17 Q. Okay.

18 A. And so I don't remember, but I know that I was
19 producing -- I did that for -- I want to say it was a
20 couple of weeks. And that -- that became very labor
21 intensive, and so we changed the frequency of the
22 report to weekly.

23 Q. Okay.

24 MS. MARANZANO: Can I have this marked?

25 THE REPORTER: Exhibit 69.

1 (Exhibit No. 69 marked.)

2 Q. (BY MS. MARANZANO) Okay. I'm showing you
3 what we have marked for the record as Exhibit 69. Do
4 you recognize this document?

5 A. I do.

6 Q. Is this an accurate copy of an e-mail that you
7 sent?

8 A. Yes.

9 Q. And can you tell me who the recipients of this
10 e-mail are?

11 A. Yes. On the "To" line?

12 Q. Yeah.

13 A. Thomas Carter -- how much specificity do you
14 need? Do you just want me to say the regional managers
15 in DPS?

16 Q. That would suffice?

17 A. The regional managers and assistant managers
18 in DPS.

19 Q. And does that also include the CC line?

20 A. The cc line, those are some assistant managers
21 in DPS. Paul Watkins, my direct supervisor, and Steve
22 Bell, and I mentioned him before. He's the other
23 regional manager -- or, I'm sorry, the other senior
24 manager.

25 Q. And in terms of the regional managers, those

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1 are individuals that you supervise, correct?

2 A. That's not an accurate statement. I supervise
3 Sam Silva. He's the regional manager for Region 3.
4 Estella Valenzuela, Region 4; Tomas Valdez, Region 5;
5 Barbara Hubbard, 6A; Joe Garcia, 6B; Tom Carter, Kathy
6 Bergman, Salestus Winkley, and Johnnie Berkley, those
7 are the regional managers for DPS Regions 1A, 1B, 2A,
8 and 2B. They're supervised by Steve Bell, who is on
9 the cc line.

10 Q. With regard to the EIC program, since you were
11 the point of contact for that program, would you say
12 you supervise them with regard to EICs?

13 A. I wouldn't use that term, but I -- because --
14 because, to my mind, "supervisory" means that I
15 evaluate them somehow or I'm somehow in their
16 administrative chain. I have -- I can -- I can tell
17 them what to do regarding EICs.

18 Q. Okay.

19 A. All right.

20 Q. That's what I was looking for in terms of
21 explaining the role.

22 So can you look at the date that this was
23 sent?

24 A. June 26th.

25 Q. Is that -- do you know how that date relates

1 to when you started issuing EICs?

2 A. If I'm not mistaken, that's -- that's either
3 the beginning or roughly when we -- or when the DPS was
4 told to -- told to issue EICs.

5 Q. Okay. Can you read the first sentence of this
6 e-mail?

7 A. Yes. "Folks, election certificates will be a
8 big deal for the next week to ten days. Expect to be
9 peppered with requests regarding the number of EICs" --
10 I'm sorry -- "the number of certificates we have issued
11 and if there are any problems with issuance. We should
12 expect this as a normal course of events."

13 Q. What did you mean by "a big deal for the next
14 week to ten days"?

15 A. Well, in light of the -- in light of the
16 decision and in light of the directive for us to issue
17 these documents, I thought that it would be very
18 important.

19 Q. What decision are you referring to?

20 A. The decision to issue EICs.

21 Q. Okay. And is there a reason that you thought
22 the EICs would be a big deal for a week to ten days?

23 A. Well, that was -- I didn't realize -- I
24 thought that after a week to ten days that it would --
25 things would settle and it would be a normal part of

1 our routine, the same way that we do everything else.
2 So that was -- that was obviously an inaccurate
3 statement.

4 Q. Can you look at the last sentence of this
5 e-mail?

6 A. "Thank you for your patience."

7 Q. It says, "I will need negative activity
8 reports to feed the machine up here," the second to
9 last sentence.

10 A. "I know this sounds redundant," yes.

11 Q. What did you mean by that?

12 A. The whole thing?

13 Q. By "we need negative activity reports."

14 A. A negative activity report, as I understand
15 that and based on my experience, is that you need to
16 hear something from somebody just to know that they're
17 out there. So when I say a negative activity report,
18 if you were one of my office supervisors or if you were
19 one of my regional managers, I would expect you to come
20 back and say, "I did not issue any EICs today." And I
21 do that as -- I did that as a forcing function because
22 if you work for me and I'm asking you to provide me
23 with information, then -- and even if you come back and
24 say, "Tony, there's no -- we have had no EICs," then I
25 have a reasonable expectation that you've done your due

1 diligence and you've checked with your subordinates and
2 that you know if any have been done.

3 Q. Why were you assuming right at the beginning
4 of this EIC program that the reports would be negative?

5 A. No. They're -- no, I'm asking for information
6 and it could be, "I've issued an EIC," okay, that would
7 be a report to my mind, or, "I didn't issue an EIC," in
8 which case we haven't issued any, that would be
9 negative. But I wasn't assigning any negative
10 connotations to that. That's just the way I talk.

11 Q. So when you said "negative activity reports,"
12 you referred -- you meant that to mean either active
13 reports in which an EIC was issued or in which an EIC
14 was not issued?

15 A. What I wanted to hear from the -- the regional
16 managers was I wanted to know -- I wanted to hear from
17 them whether they had issued an EIC or they hadn't. In
18 other words, if no one had come into the office, then I
19 expected to have -- to have the regional managers tell
20 me, "Nobody came into the office." So there's not an
21 assumption -- there's a -- there's a -- there's
22 communication between both of us where I know that
23 you've checked and nobody has come into your office and
24 I know that for a fact.

25 Q. Did you have any concerns about using this

1 wording that it might suggest that you were looking for
2 a negative report, in other words, that EICs had not
3 been issued?

4 A. I'm not sure we're communicating right. So
5 the -- it didn't matter whether an EIC had been issued
6 or not, okay. That's not -- that's neither positive
7 nor negative.

8 Q. Okay.

9 A. What I wanted to get from the regional
10 managers was, I wanted to know if somebody had come in
11 or if somebody had not come in. And when I say
12 somebody had not -- nobody had come in, that would be
13 what I -- what I call -- what I have called for 22
14 years, a negative report.

15 Q. Okay. So why did you use the words "negative
16 report" if you wanted it to capture both when somebody
17 had come in and when somebody didn't come in?

18 A. That's just the way I write. I mean, that's
19 the way I -- ask my kids, that's the way I tell it.

20 Q. Did you have any concerns that you were
21 suggesting a certain outcome by using the words
22 "negative activity report"?

23 A. Not until right now.

24 Q. What did you mean by "feed the machine"?

25 A. That's a term that I use. It's a -- a machine

1 is a system and -- and the system runs on information
2 and we have to know and that's why I ask for reports
3 whether people had come into the office or not.

4 Because -- because if you -- if you were my supervisor,
5 for instance, and I said, "Well, five people went into
6 five offices," then you would want to know if anything
7 else had gone on. It would be my -- the way I view it,
8 it would be my responsibility to tell you, "We only had
9 five and nobody else came in." And I would have to be
10 certain of that information.

11 Q. And who is the machine in this case?

12 A. Well, I'm part of the machine because I'm
13 responsible for the program.

14 Q. Who else is part of the machine?

15 A. Well, I mean, "the machine" is a slang term
16 for -- for the system. I refer to it as headquarters.

17 Q. And by that, you mean DPS leadership?

18 A. Well, certainly my leadership needed to know
19 that.

20 Q. Your leadership being DPS?

21 A. Being -- well, yes. So it would be Paul
22 Watkins and Joe Peters. They're the ones that I
23 reported to on EICs.

24 Q. Do you know if this information was also
25 shared with the secretary of state's office?

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1 A. It should have been, yes.

2 Q. Was it shared with the governor's office?

3 A. I don't know.

4 Q. Was it shared with the lieutenant governor's
5 office?

6 A. I don't know.

7 Q. I believe earlier you testified that when
8 somebody appears at a driver's license office and
9 expresses an interest in obtaining an EIC, but does not
10 have the required underlying documentation, that person
11 is reported as an inquiry; is that right?

12 A. Not necessarily.

13 Q. Okay. How is that person recorded?

14 A. So give me the scenario again, please.

15 Q. An individual wants to apply for an EIC, but
16 does not have the required underlying documentation.

17 A. Well, it could be reported as an inquiry. But
18 if they -- if they were seeking an EIC, then we would
19 send -- we would tell -- we would tell them what they
20 needed to have to satisfy the requirements. I never
21 thought about it that way. I guess the short answer is
22 I don't know.

23 Q. Is it possible that person would not get
24 recorded at all?

25 A. It's possible, yes.

1 Q. Okay.

2 A. I mean -- now, when I answer that question, we
3 have -- we have talked to our staff repeatedly on the
4 importance of collecting information on inquiries.
5 So -- but, yes, of course, it's possible.

6 Q. Why did you not include in this e-mail to your
7 staff a request to include information about inquiries?

8 A. I don't know. That was an oversight.
9 Because -- because it was the 26th of June and we had
10 just started and didn't know what we needed to get.

11 Q. Are you confident that you have consistently
12 received information about EIC inquiries --

13 A. Yes.

14 Q. -- from all offices issuing EICs?

15 A. Yes.

16 Q. And what gives you that confidence?

17 A. Because we have a quality QA/QC check, as I
18 discussed previously, done by LRS. So when a -- I'm
19 sorry, are you talking about issuances or inquiries?

20 Q. I'm talking about inquiries.

21 A. Oh, inquiries. Well, I have a reasonable
22 confidence. We have -- we have told the chain of
23 command, we have talked to the CSRs about it. By and
24 large, my experience has been they're conscientious
25 employees. I think they're doing their job, so, yes.

1 Q. Is it possible that you did not receive
2 reporting on all EIC applicants who wanted to apply for
3 an EIC, but did not possess the underlying required
4 documentation?

5 MR. KEISTER: Objection, calls for
6 speculation.

7 Q. (BY MS. MARANZANO) You can answer.

8 A. I don't know. It's possible, I suppose.

9 Q. Who -- what categories of people do get
10 recorded in the inquiry field?

11 A. I believe there's -- it's general, so we have
12 had people come in and they ask general information.
13 And sometimes these are election officials and they
14 just want to educate themselves or they're customers
15 who think that they want a free ID card. And we have a
16 way to categorize each one of those people who don't
17 have the documents, perhaps, or they need to go get the
18 documents, that kind of business.

19 Q. Okay. And did you say people who might want
20 to use the EIC for something else?

21 A. I don't know. Did I?

22 Q. If somebody came in -- let me just back up and
23 ask.

24 A. Yeah.

25 Q. If somebody wanted to apply for an EIC --

1 A. Right.

2 Q. -- but they wanted to use it for another
3 purpose other than voting, is that somebody who
4 would -- who would be permitted to apply for an EIC if
5 they expressed their desire to the DPS employee?

6 A. I think you asked me this question before. I
7 guess it would depend. I mean, it's -- we issue the
8 EIC to the customer.

9 Q. Uh-huh.

10 A. And we explain to the customer what it's used
11 for, what its intended use is for. If the customer
12 goes and uses it for something else, to purchase
13 something or to prove something to a third party,
14 that's -- that's, I guess, the purview of that third
15 party. But we inform the customer that that's not the
16 purpose.

17 Q. Uh-huh. And I guess what I'm asking you is,
18 if the customer expresses that desire to the DPS
19 employee when they're applying --

20 A. Uh-huh.

21 Q. -- does the DPS employee then -- do they
22 refuse to issue the EIC on that basis?

23 A. I've never heard of that happening.

24 Q. You've never heard of that?

25 A. We advise the customer that the -- there are

1 other forms of identification that we can provide to
2 them, like a Texas ID card, which can be used for
3 identification purposes. But I've never heard -- it's
4 never been brought to my attention -- or I don't think
5 it's been brought to my attention that we have denied
6 service to a customer who has said, "I want to take
7 this and use it for something else." I don't recall
8 anything like that.

9 Q. And the other forms of identification that
10 you're referring to, do they all cost some amount of
11 money to obtain?

12 A. They do.

13 Q. Does DPS compile these reports that it was
14 getting into a larger analysis?

15 A. Which reports?

16 Q. The reports that you were getting from the
17 customer service representatives.

18 A. I don't believe so, no.

19 Q. Is there any compilation of the number of
20 people who tried to apply for an EIC, but lacked a
21 birth certificate?

22 A. A compilation?

23 Q. Uh-huh.

24 A. It's on a spreadsheet that we keep and we
25 would have to go through there. But -- so I suppose --

1 I suppose the answer is yes.

2 Q. You have a spreadsheet of everyone who wanted
3 to apply for an EIC, but lacked a birth certificate?

4 A. We have a spreadsheet of every EIC application
5 and it also indicates whether it's valid or invalid and
6 the reason why it was valid or invalid.

7 Q. And if somebody at a driver's license office
8 wants to apply for an EIC, but doesn't have a birth
9 certificate, would -- is it possible they wouldn't
10 actually fill out an EIC application?

11 A. That doesn't make any sense.

12 Q. Does it --

13 A. Would you restate that?

14 Q. I thought that you testified earlier that when
15 an individual enters a driver's license office and
16 wants to obtain an EIC --

17 A. Yes.

18 Q. -- there's a dialogue about what's required to
19 obtain an EIC.

20 A. Yes, yes, yes.

21 Q. If that person doesn't have some of the
22 underlying documentation, isn't it possible they might
23 leave without completing an EIC application?

24 MR. KEISTER: Objection, form, calls for
25 speculation.

1 THE WITNESS: I don't know what they
2 would do.

3 (Exhibit No. 70 marked.)

4 THE REPORTER: Exhibit 70.

5 Q. (BY MS. MARANZANO) Okay. I'm showing you
6 what we have marked for the record as Exhibit 70. Do
7 you recognize this document?

8 A. I do.

9 Q. Is this an accurate copy of an e-mail that you
10 sent?

11 A. Yes.

12 Q. Do you see at the bottom of the page the
13 e-mail that we just spoke about?

14 A. I do.

15 Q. And then there's a response from Mr. Winkley?

16 A. Salestus Winkley, yes.

17 Q. Who is Mr. Winkley?

18 A. Salestus Winkley is the regional manager for
19 DPS Region 1A.

20 Q. Is he responsible for determining whether to
21 issue an EIC applicant an EIC in his -- in the offices
22 that he oversees?

23 A. Well, within our hierarchy, he could be -- I
24 mean, the -- we have a chain of command, but he's the
25 regional manager. So if an issue was referred to him,

1 then he would be the one responsible.

2 Q. And so he supervises employees who are issuing
3 EICs; is that correct?

4 A. Yes. Yes, he does.

5 Q. Okay. Can you look at your reply to
6 Mr. Winkley?

7 A. Yep.

8 Q. What do you mean by "zero is a good number"?

9 A. That goes back to the discussion on the -- on
10 the e-mail below.

11 Q. Uh-huh.

12 A. And then when I say that I need negative
13 activity reports. So as I was saying before, so now I
14 know that Salestus has had nobody go and an ask for an
15 EIC.

16 Q. Were you saying that issuing -- that not
17 issuing any EICs is a desirable outcome?

18 A. No.

19 Q. Why is -- have you ever expressed the view
20 that issuing zero driver's licenses is a positive
21 outcome, is a good -- good thing?

22 A. No. I was referring to the number, so he
23 provided me information that I needed. And, in this
24 instance, he hadn't issued and that's what I needed in
25 order to report to my chain of command and I needed to

1 have that number. That was a negative activity report,
2 so now I know that nobody went into his office. I
3 didn't have to make an assumption on whether he had
4 people go -- customers seeking EICs or not. He
5 provided me the information. And, in this instance, it
6 was zero and zero was the information that I was
7 looking for.

8 Q. So when you said "zero is a good number,"
9 you're saying that that didn't have any -- you weren't
10 referring to the number zero itself when you said
11 that's a good number?

12 A. Well, he provided me the information that I
13 wanted, okay. And, in this instance, it was zero. 15
14 could have been a good number because I had the
15 information that I needed in order to fill out my
16 report.

17 Q. Did you consider how the recipient of the
18 e-mail, Mr. Winkley, would respond to the statement
19 "zero is a good number"?

20 A. Salestus knows me well enough to know how I
21 speak.

22 Q. If you had received an e-mail that said "zero
23 is a good number," what would you have thought that
24 meant?

25 A. I would have thought that I provided him with

1 the information that he was looking for and, in this
2 instance, that was zero and that was okay.

3 Q. Do you think that an employee might be
4 deferred from issuing EICs to eligible applicants when
5 someone supervising the program says it's a good thing
6 not to issue any EIC applications?

7 MR. KEISTER: Objection, form. That
8 mischaracterizes the previous testimony.

9 THE WITNESS: Say that again, please.

10 Q. (BY MS. MARANZANO) Do you think that an
11 employee might be deterred from issuing EICs, even to
12 eligible applicants, when a supervisor of the program
13 says it's a good thing to issue zero?

14 A. Well --

15 MR. KEISTER: Objection -- same
16 objection.

17 THE WITNESS: I'll answer anyway.

18 MR. KEISTER: Okay.

19 THE WITNESS: No, because we have -- we
20 have told the employees to be liberal in how they look
21 at documents and to err on the side of issuance. So
22 that's the first instance.

23 And the second instance is the
24 communication between Salestus and I, and Salestus
25 knows how I speak and how I express myself.

1 Q. (BY MS. MARANZANO) Did you consider whether
2 sending this e-mail would discourage employees from
3 issuing EICs?

4 A. I did not.

5 Q. Have you said similar things to other DPS
6 employees?

7 MR. KEISTER: Objection, vague.

8 THE WITNESS: Not that I can recall.

9 Q. (BY MS. MARANZANO) Do you believe that DPS
10 should not be responsible for issuing EICs?

11 A. I believe that we should be responsible for
12 issuing EICs.

13 Q. Do you believe that EICs should be made
14 available to individuals?

15 A. Yes.

16 (Exhibit No. 71 marked.)

17 Q. (BY MS. MARANZANO) I'm showing you what we
18 have marked for the record as Exhibit 71. Do you
19 recognize this document?

20 A. I do.

21 Q. Is this an accurate copy of an e-mail that you
22 received?

23 A. Yes.

24 Q. And also an accurate copy of an e-mail you
25 sent?

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1 A. Yes.

2 Q. Okay, thank you. Can you take a look at the
3 initial message on the bottom of the page?

4 A. The one that was dated 5 July, yes.

5 Q. And so, at this point, did you change the
6 frequency of which you were collecting EIC reports?

7 A. Well, it says here, "Just to follow-up, I only
8 need your EIC reports once a day at 4:00." So, yes.

9 Q. And that happened on July 5th; is that
10 correct?

11 A. Yes.

12 Q. And who made the decision to change the number
13 of times you were gathering information from twice a
14 day to once a day?

15 A. I discussed it with Joe Peters. My
16 recommendation was that since -- since I was spending a
17 lot of time producing EIC reports that I wanted to go
18 from twice a day to once a day.

19 Q. Okay. And so was it Mr. Peters' decision to
20 do that?

21 A. It was my recommendation, but he okayed it.

22 Q. And can you tell me, do you see that
23 Mr. Carter sent you an e-mail that said, "Negative
24 today" --

25 A. Yes.

1 Q. -- in response to your response for EIC
2 reports?

3 A. Yes.

4 Q. And your response to that was, "No inquiries
5 either. This is getting better by the day."

6 A. Yes.

7 Q. What did you mean by that?

8 A. Tom Carter is an old Navy man. So I
9 understood his report to be that he hadn't had any
10 activity and that was the negative report that I had
11 asked for, the negative activity report that I spoke
12 about earlier. And so he didn't get any inquiries. I
13 wanted to know if he got any inquiries, and he responds
14 about that that he hadn't got any. And when I say
15 "this is getting better by the day," we thought we were
16 going to have -- we thought we were going to have a lot
17 of customers. And so it just looked like nobody was
18 coming in. We had gone through and worked to set up a
19 system in place, but nobody was coming in.

20 Q. And did you consider it a good thing that
21 nobody was coming in?

22 A. I was just stating a fact.

23 Q. And the fact is that it was getting better
24 than by the day?

25 A. The fact is that nobody was coming in.

1 Q. And why did you characterize that as "getting
2 better"?

3 A. Well, we had gone and established an
4 infrastructure of reporting, and so we had expended a
5 lot of time and effort to work on something, but nobody
6 was coming in. So that was sarcasm.

7 Q. And your characterization of that was that
8 that was a good thing?

9 A. No. It was -- it was merely -- it was merely
10 a special frustration that we had prepared for
11 something, but it hadn't happened. We had prepared for
12 a football game, but nobody showed up.

13 Q. So "this is getting better by the day" is an
14 express of frustration?

15 A. My frustration.

16 Q. Did you consider how Mr. Carter might take
17 that statement?

18 A. Well, as I mentioned, again, Tom's a Navy guy.
19 So Tom and I were able to -- were able to talk. Tom
20 knows me well enough that when I say things, I use
21 military vernacular, that he takes it for what it's
22 worth.

23 Q. Did you have any concern that you were
24 suggesting that no EIC activity is a good thing?

25 A. No. That wasn't what I was implying.

1 Q. Any concern that this message might discourage
2 DPS employees from issuing EICs -- EICs even to
3 eligible applicants?

4 A. Since that would run contrary to the training
5 and the instructions we had given them, no.

6 Q. Did you say similar things to other DPS
7 employees?

8 A. I may have.

9 Q. Any specific recollections, as you sit here
10 today?

11 A. No. I mean --

12 Q. Have you ever made a similar comment about
13 driver's licenses?

14 A. Not to my knowledge, no.

15 Q. Have you ever made a similar comment about
16 personal identification cards?

17 A. Not to my knowledge.

18 Q. Have you ever made a similar comment about a
19 license to carry concealed handguns?

20 A. Driver license division doesn't deal with
21 concealed handgun licenses.

22 Q. So would that be a no?

23 A. That would be, we don't have anything to do
24 with concealed handgun licenses.

25 Q. Okay.

1 (Exhibit No. 72 marked.)

2 THE REPORTER: Exhibit 72.

3 MS. MARANZANO: Thanks.

4 Q. (BY MS. MARANZANO) I'm showing what we are
5 marking for the record as Exhibit 72. Do you recognize
6 this document?

7 A. Yes.

8 Q. Is this an accurate copy of an e-mail that you
9 sent and received?

10 A. Yes.

11 Q. And on the bottom e-mail, who are the
12 individuals that this e-mail was sent to?

13 A. Let's see. Well, it's the regional managers;
14 Joe Peters, Paul Watkins, and Steve Bell. Janie Smith
15 and Lori are policy people. Enrique was one of our
16 tech solutions people. He doesn't work for us anymore.
17 Joe Mastracchio is a DAD, a deputy assistant director.
18 Ron Grahovec works for L1. John Crawford is one of our
19 IT guys. Tom Vinger is one of our meeting
20 communications people. So is Katherine Cesinger.
21 Stephanie Hunter is an assistant manager in one of the
22 regions. It escapes me which one. So is Charles
23 Wells, David Barber, Barbara Munoz, and Carolina
24 Segundo.

25 Q. And this e-mail was sent on July 15th; is that

1 correct?

2 A. The bottom one was sent on July 15th, yes.

3 Q. Yes. And, at this time, did you change the
4 reporting cycle to a weekly reporting cycle?

5 A. Well, let's see.

6 Q. I'm looking at the --

7 A. Yeah, I know. I'm reading it, too. "We are
8 changing the reporting cycle from daily to weekly,"
9 yes.

10 Q. Whose decision was that?

11 A. That was -- that was Joe Peters decision based
12 on my recommendation.

13 Q. What was your recommendation based on?

14 A. My recommendation was based on the amount of
15 time that we were -- that we spent working on EICs and
16 compiling the information.

17 Q. Okay.

18 A. It didn't -- it seemed to me that the -- that
19 my assessment was that a daily report that captured all
20 the information that occurred during the day was a more
21 effective one than one in the morning and one in the
22 evening because sometimes you get those reports mixed
23 up. So my recommendation -- I'm sorry -- then a daily
24 report, you get that information mixed up. If you
25 didn't collect it all at the end of the week, you can

1 have what I call a roll-up, which is a compilation of
2 all the -- all the information -- all the activity that
3 happened in the previous week.

4 Q. And after you went to weekly report, did you
5 ever change it back to getting reports more frequently
6 than once a week?

7 A. Well, I don't think we changed the reports. I
8 mentioned that we do a poll. So if you want the
9 information right now, you can go to the SharePoint
10 site and you can pull the information. If you want it
11 20 minutes from now, you can go back and pull the same
12 information. But I don't recall me producing a report
13 and pushing it out to anybody to go back. I may have,
14 but I don't -- I don't recall, no.

15 Q. Okay.

16 MS. MARANZANO: Can I mark this?

17 THE REPORTER: Exhibit 73.

18 (Exhibit No. 73 marked.)

19 Q. (BY MS. MARANZANO) I'm showing you what we
20 have marked as Exhibit 73 for the record. Do you
21 recognize this document?

22 A. Yes.

23 Q. Is this an accurate copy of an e-mail you sent
24 on the bottom of the page?

25 A. Yes, June 27th.

1 Q. And can you tell me, does it say, "Sir, we
2 continue our clean sweep. No EICs issued. We have had
3 a close call on Vantage Park, but the customer opted
4 out and left the office"?

5 A. Yes.

6 Q. Did I read that correctly?

7 A. Yeah, you did good.

8 Q. Thank you. What did I -- what did you mean by
9 "close call"?

10 A. The customer just didn't want it.

11 Q. What did you mean by "clean sweep"?

12 A. That we -- I would need to see the document on
13 there, but based on the inference, it seems to me that
14 we really hadn't any EICs that were issued.

15 Q. Are you aware of why this customer opted out
16 and left the office?

17 A. No. It may be in the database someplace, in
18 our spreadsheet.

19 Q. Why did you choose to use these words, "clean
20 sweep," "close call"?

21 A. That's just the way that I speak. When you do
22 something your entire adult life, it's just how you --
23 I'm sure you have the same -- same colloquialisms and
24 terms. That's just what I've done.

25 Q. Did you have any concern that describing an

1 individual who wanted -- who was expressing interest in
2 applying for an EIC as a close call would discourage
3 individuals working for you from issuing EICs?

4 A. Certainly not. That would run contrary to the
5 training and the guidance that we had given them.

6 Q. But you're also supervising the EIC program,
7 correct?

8 A. Right.

9 Q. And you're using words like "close call" to
10 describe somebody who is interested in obtaining an
11 EIC, correct?

12 A. That's just the way that I speak.

13 Q. So you think that when you send a message and
14 there's training that has a contrary message that
15 employees will follow the training as opposed to what
16 their supervisor is telling them?

17 MR. KEISTER: Objection, form. That's
18 vague and mischaracterizes previous testimony.

19 THE WITNESS: Thank you. I wouldn't say
20 that it was a contrary message. That's the way that I
21 express myself. And -- and I don't think that -- that
22 anything that I've done in my actions towards the
23 customers or the guidance that we have put out in our
24 training procedures or during our conference calls or
25 anything like that would discourage our -- our

1 employees from issuing an election certificate to a
2 customer that was supposed to get one.

3 Q. (BY MS. MARANZANO) You don't have any
4 concerns about the language that you used being
5 discouraging to DPS employees?

6 A. No.

7 Q. Is it DPS's responsibility to implement the
8 EIC program in a way that ensures an eligible EIC
9 applicant can obtain an EIC?

10 A. Yes.

11 Q. Is it DPS's responsibility to make the EIC
12 process as easy as possible for an EIC applicant?

13 A. Within the constraints of the law, yes.

14 (Exhibit No. 74 marked.)

15 THE REPORTER: Exhibit 74.

16 Q. (BY MS. MARANZANO) Can you take a look at
17 this and tell me if you recognize it?

18 A. Yes.

19 Q. What is this?

20 A. This appears to be an EIC report that I sent
21 for a -- it looks like it's a weekly report.

22 Q. Can you turn to the second page? Actually,
23 let me clarify. When you say "weekly report," this is
24 the information that you were receiving from the
25 regional offices and putting into one piece of

1 information and pushing out; is that correct?

2 A. I would refer to this as a product. So I
3 received information from the offices, I consolidated
4 it into this product, and I pushed this out.

5 Q. Okay. On the second page, under Hidalgo
6 County --

7 A. Yes.

8 Q. Inquiry for information only, there's a -- one
9 person is listed as, "Customer was needing supporting
10 document." And the one below that, "Customer was
11 needing birth certificate."

12 A. Are you talking about La Joya City Hall, Unit
13 No. 17?

14 Q. Yes.

15 A. And Weslaco Business and Visitors Center, Unit
16 No. 17?

17 Q. Yes.

18 A. Yes.

19 Q. Do all offices distinguish between applicants
20 lacking birth certificates and applicants lacking other
21 forms of supporting documentation?

22 A. I'm not sure it's a -- I'm not sure it's a
23 hard distinction because a birth certificate is
24 documented. It just depends on who is entering the
25 report and how they refer to it.

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1 Q. Have you provided offices with any guidance
2 for tracking individuals who lack birth certificates?

3 A. No.

4 Q. And, previously, I believe you said that an
5 individual who lacked the underlying documentation may
6 or may not be recorded as an inquiry on this report; is
7 that correct?

8 A. Yes.

9 Q. Okay. Can you turn to the third page under
10 Region 3?

11 A. At the very bottom?

12 Q. Uh-huh.

13 A. Yes.

14 Q. Do you see that there's an individual -- or
15 there's three -- I guess, three individuals listed as,
16 "Inquiry, did not have proof of citizenship"?

17 A. Uh-huh.

18 Q. Does that three indicate how many individuals
19 fall into that category?

20 A. That's how I understand it.

21 Q. Okay. And is that based on basically what we
22 have talked about earlier, that individuals are
23 required to -- required to present some sort of
24 documentary proof of citizenship when they apply?

25 A. Yes.

1 Q. Okay. How many times has a person sought to
2 apply for an EIC, but lacked the underlying
3 documentation?

4 A. An individual?

5 Q. Uh-huh.

6 A. I don't know.

7 Q. But that's information that you have some
8 tracking system for; is that correct?

9 A. Not to the individual -- not to the -- not
10 down to the individual, I don't think.

11 Q. Okay.

12 A. I don't believe, no.

13 Q. How many times has an individual attempted to
14 apply for an EIC, but been denied because they didn't
15 have documentary proof of citizenship?

16 A. I don't know.

17 MR. KEISTER: Objection, vague. And I
18 think, counsel, that -- I think you're confused about
19 him saying "an individual." I think he thinks you're
20 thinking about one individual coming back as opposed
21 to -- as opposed to how many individuals.

22 MS. MARANZANO: Let me rephrase my
23 question.

24 MR. KEISTER: I think. I apologize, I'm
25 sorry if I'm wrong.

1 Q. (BY MS. MARANZANO) How many EIC applicants
2 have been unable -- or potential EIC applicants have
3 been unable to obtain an EIC because they lacked
4 documentary proof of citizenship?

5 A. I -- I don't know. I would have to go and
6 look -- look in our spreadsheet in order to provide
7 that information.

8 Q. Do you know approximately how many?

9 A. No, I don't.

10 Q. Are you still doing okay? Do you need --

11 A. Well, I'll need some more water in a bit.

12 Q. We'll push through a little bit longer.

13 A. That's fine.

14 Q. Okay.

15 THE REPORTER: Off the record.

16 (Discussion off the record.)

17 THE REPORTER: On the record.

18 (Exhibit 75 marked.)

19 Q. (BY MS. MARANZANO) I'm showing you what we've
20 marked as Exhibit 75 for the record.

21 A. Give me a second.

22 Q. Yep.

23 A. I have it.

24 Q. Can you take a look at this and tell me if you
25 recognize it?

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1 A. Sure.

2 Q. What is this?

3 A. Well, it's two-page document. So the front
4 part is an e-mail. The back part looks like it's a
5 report of inquiries and issuances for mobile stations
6 in at least two counties.

7 Q. Can you look at the top inquiry box?

8 A. Uh-huh.

9 Q. It says, "Number of inquiries that did not
10 qualify, one"?

11 A. Yes.

12 Q. And then the remarks, "Did not meet ID
13 policy."

14 What does that mean?

15 A. It means that the applicant wasn't able to
16 provide the identification documents that we require in
17 order to issue an EIC.

18 Q. So is that another way of saying the applicant
19 did not provide the required underlying documents?

20 A. Yes.

21 Q. Do you break out -- in that remark column, do
22 you break out documents that show identification as
23 opposed to documents that show citizenship or something
24 else?

25 A. I don't -- I don't recall any instruction to

1 do that. A lot of that would be up to the individual
2 who was putting the information into the blocks.

3 Q. Okay.

4 A. I don't -- I don't recall if we had any -- any
5 reporting standards that broke it down that way.

6 Q. Okay. Did you ever provide guidance to
7 individuals in terms of how to record the information
8 that they were sending to you?

9 A. I don't recall doing that.

10 Q. Okay.

11 (Exhibit 76 marked.)

12 Q. (BY MS. MARANZANO) I'm showing you what we've
13 marked as Exhibit 76.

14 Do you recognize this document?

15 A. I do.

16 Q. What is this?

17 A. This is an e-mail from -- there's two e-mails
18 in there. There's an e-mail from myself out to the
19 regional managers who work for me, sent on September
20 the 14th. And then there was a response the next day
21 from Sam Silva, who's the regional manager for DPS
22 Region No. 3.

23 Q. Do you see that second entry in the box of --
24 can you take a look at that?

25 A. It says 9, slash, 14, 2013, Weslaco station?

1 Q. Yes. Exactly.

2 A. Yes.

3 Q. Do you see that the inquiry says that that
4 individual never had a US birth certificate?

5 A. That's what it says, yes.

6 Q. What's the appropriate way to handle an
7 applicant who says that they never had a US birth
8 certificate?

9 A. Well, we -- we asked the customer to prove
10 their citizenship. My father hasn't got a US birth
11 certificate. He's a naturalized citizen. He show his
12 naturalization card.

13 Q. What if an individual is born in United States
14 but doesn't have a birth certificate, how is that
15 applicant handled?

16 A. There are a variety of ways that we can help
17 mitigate that.

18 Q. What are those ways?

19 A. There may be a midwife certificate. There may
20 be census documentation. There may be other
21 documentation that we get from the Social Security
22 agency. And it goes back to what I mentioned earlier
23 about the supporting documentation in that the farther
24 you get from the driver license or the identification
25 card, the more other documentation that you need. The

1 customer may have a lot of things. We've accepted
2 affidavits from people who were present at the birth of
3 a customer saying that, you know, he was born in such
4 and such a county. It would depend on that.

5 Q. So DPS will accept documents that prove birth
6 that aren't a certified copy of the birth certificate?
7 Is that what I'm hearing you say?

8 A. We have -- we have discretion in the documents
9 that we do accept; but again, it would -- it would
10 depend on the other documents that were provided.
11 We -- when -- remember what I said about the -- the --
12 the lower the quality -- and I'm not saying that in a
13 pejorative way; but the farther you get from the driver
14 license and the ID card, the more we rely on a mass of
15 documents. So if we had a number of documents, then we
16 could -- if the customer also had a Social Security
17 card or knew the Social Security number. We call them
18 numies. We could have that or an affidavit or there
19 are other things. There could be tribal memberships
20 and things like that. We can accept a lot of things to
21 help show that a customer was born in the United
22 States.

23 Q. Doesn't the regulation specify what you can
24 accept?

25 A. The regulation?

1 Q. Uh-huh. That we looked at earlier.

2 A. You mean the rule?

3 Q. Yes.

4 A. The rule -- I need to go back and refer to it,
5 but I think that it also says other documents. And we
6 can -- we do have some discretion which other ones we
7 deal with.

8 Q. And the other document -- the other document
9 is -- the discretion to accept other documents is one
10 of the items listed in the supporting document
11 category; is that correct?

12 A. Yes.

13 Q. And doesn't the regulation require that
14 somebody show, along with the supporting documentation,
15 at least one of the forms of secondary ID?

16 A. It does. But some customers might not have
17 that. It would depend on the customer.

18 Q. When a customer doesn't have that, you're
19 willing to forego the requirement that they show the
20 secondary?

21 A. Well, there's not a foregoance. It's that we
22 accept other documents that give us a reasonable --
23 that would -- that make us reasonably certain that that
24 individual is who they represent themselves to be.

25 Q. Is that permitted by the regulation, as you

1 read it?

2 A. By the rule?

3 Q. Uh-huh.

4 A. Well, we certainly do it, yes.

5 Q. Is it a DPS discretionary decision?

6 A. DPS has discretion, and driver license
7 exercises discretion when dealing with customers.

8 Q. So is this policy written down or memorialized
9 anywhere?

10 A. Well, it's -- it's in our -- in it's our --
11 our admin rules, and it's also part of our training as
12 a part of our procedures.

13 Q. Which admin rules is it in?

14 A. The ones that we discussed earlier. The --
15 we're talking about EICs now? Are we talking about --

16 Q. We're talk about EICs.

17 A. Okay. So it's -- it's in the admin rules that
18 we spoke about earlier. What is that, 15? Whatever it
19 is.

20 Q. But the admin rules actually say something
21 different, correct?

22 A. The -- we're allowed discretion in what we
23 accept.

24 MR. KEISTER: It may be on that. I'm not
25 sure.

1 THE WITNESS: I think it's these other
2 documents in the -- it's in the 521. I can't -- I
3 can't remember it right now.

4 Q. (BY MS. MARANZANO) It's your testimony that
5 DPS has discretion to determine what documents are
6 sufficient?

7 A. We have some discretion, yes.

8 Q. Some discretion and --

9 A. We can't accept nothing.

10 Q. Can you, as you sit here today, tell me what
11 you could accept?

12 A. I would need to see what it was. And it would
13 depend on what the customer provided.

14 Q. So --

15 A. It's -- it's very much a -- it's very much an
16 individual case-by-case basis. I need to see what the
17 customer or the office personnel -- I need to see what
18 the customer gives us or what they bring.

19 Q. And it's -- and the case-by-case determination
20 is being made by whom?

21 A. Well, initially, it's made by the people in
22 the office, our CSRs in the office. If they have a
23 question -- and they can refer it to their office
24 supervisor, who makes a determination based on their
25 experience. If they have a question, of course, they

1 would go to the assistant manager and the regional
2 manager; and they would come to me.

3 Q. And the CSR, if they turn somebody away
4 because they don't think the documentation is
5 sufficient to establish identity, that -- that
6 person -- they may not have gotten that person's name
7 or contact information; is that correct?

8 A. It would depend on where they are in the
9 process.

10 Q. What do you mean by that?

11 A. Well, so the customer would come and provide
12 the filled out application, the DL 14; and we would
13 have -- in that instance, we would have the customer's
14 name and some contact information.

15 Q. So if the person has already completed the
16 application, you would have the person's name and
17 contact information?

18 A. Yes.

19 Q. And if you determine that somebody in that
20 situation was given incorrect information, do you
21 follow up with that applicant?

22 A. We could, yes. The office supervisors would
23 do that.

24 Q. Is that something you do?

25 A. It's not something I do, necessarily; but it's

1 something that the department would try to do if we're
2 able to. We prefer the customer get the documents
3 that -- the identification documents that they're --
4 that they want and that they need.

5 Q. And in terms of the documents that are
6 presented --

7 A. Uh-huh.

8 Q. -- is there any DPS office policy or office
9 guideline that lays out what CRS's or other individuals
10 issuing EICs are supposed to be looking for in terms of
11 this case-by-case determination?

12 A. Well, it's based on their experience as driver
13 license employees. So there's a standard training that
14 they all go through. It's an eight-week training
15 program. It's also based on their experience working
16 in those offices and accepting documents and referring
17 questions to their supervisors who have a tremendous
18 amount of experience in seeing identification
19 documents -- a variety of identification documents.

20 Q. And do you see on this document that we're
21 looking, this particular customer was told that he
22 could not be processed.

23 Do you see that?

24 A. I do.

25 Q. And do you feel that that was the

1 appropriate -- you believe that was appropriate way to
2 handle this situation?

3 A. Well, it's -- he had never had a US birth
4 certificate, and he couldn't be processed. That's all
5 I know about the transaction.

6 Q. Uh-huh. Is there -- does it -- it doesn't
7 describe any of the other alternatives that you just
8 mentioned to me, does it?

9 A. No, ma'am.

10 Q. If the -- if the DPS employee had explained
11 that, would that be captured in this report, explained
12 that the individual had the option of providing any one
13 of the different documents you've just described to me?

14 A. All I know about the report is what's written
15 here on the e-mail. I don't know what other exchanges
16 took place between the employee and the customer.

17 Q. And you testified earlier that you haven't
18 given employees guidance on what information they
19 should be capturing in these reports; is that correct?

20 A. That's true.

21 Q. Okay.

22 MS. MARANZANO: Is everybody okay?

23 THE WITNESS: I would like to take a
24 break, if that's all right.

25 (Lunch recess from 12:26 p.m. to 1:13 p.m.)

1 THE REPORTER: Back on the record.

2 MS. MARANZANO: Okay. Back on the
3 record.

4 Q. (BY MS. MARANZANO) Am I correct that you
5 testified earlier that the first several weeks that DPS
6 was issuing EICs you didn't actually issue any EICs?

7 A. To the best of my recollection, that's right.
8 I don't remember -- I don't remember when we issued our
9 first EIC.

10 Q. What did you attribute that to, the lack of
11 issuing EICs?

12 A. I don't -- I don't recall.

13 Q. Did DPS evaluate the program at any time since
14 you've been issuing EICs?

15 A. What do you -- how do you mean "evaluate"?

16 Q. Was there any conversation about the fact that
17 you hadn't issued any EICs?

18 A. Only that we hadn't issued any.

19 Q. Was there any conversation or deliberation
20 about making any changes to the EIC program?

21 A. What kind of changes?

22 Q. Was there any conversation or deliberation
23 about making any changes?

24 A. The -- the only conversations that we've had
25 regarding changing the EIC program have come after the

1 election cycles when we conducted after action reviews
2 to look at what we did and see what we could improve.
3 But other than that, no.

4 Q. Okay. And I want to talk to you a little bit
5 more about that. But in terms of looking at the fact
6 that you have issued no EICs, did DPS change any of its
7 publicity about the EIC program?

8 A. Not -- not to my knowledge.

9 Q. Did DPS make any changes to any educational
10 outreach efforts?

11 A. Not to my knowledge, no.

12 Q. Did you or anybody else at DPS do any
13 follow-up with the employees actually issuing EICs?

14 A. Other than the after action reviews that we
15 spoke about, no.

16 Q. And can you tell me what these after action
17 reviews are?

18 A. An after action review is a -- it's a military
19 term, and what you do is you look at what you were
20 asked to do, what your mission was, and then you look
21 at -- you look at it in terms of things that you had
22 done well and, therefore, need to be sustained and
23 things that need -- areas that need improvement.

24 Q. And what did you determine that you had done
25 well in these after action reviews?

1 A. Well, it would -- the specifics would depend
2 on which after action review you're talking about.

3 Q. How many have you done?

4 A. Two.

5 Q. So why don't you tell me for each one what --
6 what you thought was a success, what you thought was
7 going well in the program in each after action report.

8 A. Sure. So to the best of my knowledge, the
9 discussion revolved around what had gone well with the
10 logistics and our ability to constitute the mobile EIC
11 units and then to get them to the county that we had
12 been asked to provide service in as an example of what
13 we did well. And we recognized that an area that we
14 needed to improve on was the -- our internal data
15 tracking and also our media communications.

16 Q. And why did you determine that you needed to
17 improve your data and tracking system?

18 A. Well, it wasn't so much the information that
19 we were collecting. It was that there were a lot of --
20 we had seen those reports and the report -- the
21 frequency of the report changed and we talked about how
22 we should -- how we should get -- provide information.

23 Q. And you're referring to the reports that we
24 looked at earlier in your e-mails?

25 A. Those reports that I produced, yes.

1 Q. Okay. And in terms of the media and
2 communications, why did you decide that that needed to
3 have some improvement?

4 A. There was an internal -- it was an internal
5 communications between the driver license media point
6 of contact and the DPS media and communications point
7 of contact.

8 Q. What caused you to think that it needed to be
9 improved?

10 A. It was -- it was just based on comments that
11 we had at the after action review.

12 Q. What -- can you remember any of those
13 comments?

14 A. I don't remember specific comments. I
15 remember that -- that our median -- media guy, he -- he
16 had a difficulty understanding where we were -- where
17 we were going to go to provide services.

18 Q. Was there a concern that the media DPS was
19 providing was not accurate?

20 A. No, that wasn't a concern. It was that he
21 didn't understand. The way we depicted the
22 information, he -- it wasn't laid out in a way he could
23 understand it. He was looking for something
24 alphabetical and it was chronological.

25 Q. And so the -- when you say media

1 communications needed to improve, you're talking about
2 internal communications to your media people?

3 A. Internal from driver license to -- to the DPS
4 media communications.

5 Q. Okay. Was there any evaluation of your
6 external media communications?

7 A. Not on our part.

8 Q. Was that part of the after action review?

9 A. Which part?

10 Q. An evaluation of your external media.

11 A. No.

12 Q. Was part of the after action review an
13 analysis of how many EICs had been issued?

14 A. No.

15 Q. You didn't -- you didn't consider that at all?

16 A. It was merely a statement of fact. We issued
17 X number.

18 Q. When -- you said there were two of these after
19 action reviews that you've done?

20 A. Yes.

21 Q. And when were they done?

22 A. They were done after the election. I don't
23 have the exact dates. I believe one of them was
24 November and I believe the second one was -- was March.

25 Q. March?

1 A. To the best of my knowledge those are the
2 dates.

3 Q. Okay. So one -- to the best of your
4 knowledge, one was done after the November 2013
5 election and one was done after the March 2014
6 election?

7 A. Yes.

8 Q. Okay.

9 (Exhibit No. 77 marked.)

10 THE REPORTER: Exhibit 77.

11 Q. (BY MS. MARANZANO) I'm showing you what we've
12 marked as Exhibit 77. Do you recognize this document?

13 A. I do.

14 Q. What is this?

15 A. This is a -- appears to be a spreadsheet dated
16 the 3rd of February with a list of names and the EICs
17 that were issued to individuals, location, and type of
18 office.

19 Q. And can you turn to the -- the last page,
20 which, I think, is the fifth page.

21 A. It starts with, "Delgado, Monica"?

22 Q. Yes.

23 A. Yes.

24 Q. What is that list?

25 A. This appears to be a list of applicants who

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1 were not issued EICs.

2 Q. And are all of these individuals, individuals
3 who actually submitted a complete application to DPS?

4 A. I believe so. To the best of my knowledge it
5 is, yes. As of the 3rd of February, yes.

6 Q. And when it says, "Insufficient supporting
7 documentation," what does that mean?

8 A. It just means that the document that the
9 individual provided was -- was found to be -- I hate to
10 use the same word, but insufficient in some way.

11 Q. Is this something that would come up in the
12 quality control check?

13 A. Yes.

14 Q. So it was somebody who had the supporting
15 documentation, but for whatever reason it was found to
16 be insufficient; is that correct?

17 A. If it occurred during the -- the quality
18 control check conducted by license and record service,
19 it was based on a review of the documentation that was
20 provided.

21 Q. Okay. And if an individual hadn't had the
22 documentation, hadn't had the required documentation,
23 is it likely they wouldn't have completed an
24 application in the first place?

25 A. I don't know.

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1 Q. Did DPS make any attempt to contact the
2 individuals on this list?

3 A. To my knowledge, no.

4 Q. Did DPS share this list with any other
5 agencies?

6 A. I don't know.

7 Q. Has any agency requested this information?

8 A. I have not been -- no one has requested it
9 from me. I can't answer that question. I don't know.

10 Q. Has any agency suggested to DPS that it would
11 be useful to follow up with individuals -- such
12 individuals who have invalid applications?

13 A. Not to my knowledge.

14 (Exhibit No. 78 marked.)

15 THE REPORTER: Exhibit 78.

16 Q. (BY MS. MARANZANO) I'm showing you what we've
17 marked as Exhibit 78. Do you recognize this document?

18 A. I do.

19 Q. What is this?

20 A. This appears to be an application overview for
21 election certificates dated 21 October 2013.

22 Q. And what -- what did you say it was, an
23 application --

24 A. An application overview.

25 Q. Overview. Oh, sorry. I misheard you. And

1 what -- what is the basis for this overview, what --
2 like what -- what do you use -- what information do you
3 rely on when you're making an application overview?

4 A. What information do we use to create this?
5 That was a question. What information do we use to
6 create this?

7 Q. Yes.

8 A. Okay. We have information that's entered into
9 an Excel spreadsheet. It's currently resident on a
10 SharePoint site --

11 Q. Uh-huh.

12 A. -- although I can't tell you if this was
13 resident on the SharePoint site on the day this was
14 created.

15 Q. Uh-huh.

16 A. There was -- there was a spreadsheet and the
17 spreadsheet was used as a source document for this.

18 Q. Okay. And the spreadsheet, is that the
19 information -- the spreadsheet contains information
20 from the regional offices; is that correct?

21 A. This -- no, not now.

22 Q. Where does it get the information from?

23 A. The spreadsheet as it currently stands is --
24 receives input from each CSR who is in the field.

25 Q. Okay. I understand. Do you compile this

1 application overview?

2 A. No.

3 Q. Who does that?

4 A. Well, on the 21st of October it was -- it
5 probably -- I mean, to the best of my knowledge, it was
6 a gentleman named Ryan O'Connor.

7 Q. And do you see -- let's see -- the number
8 applied at the top of the first page?

9 A. Hang on a second. This says, "Application for
10 EIC received at an EIC station"?

11 Q. Yes.

12 A. Yes.

13 Q. Is that -- are those all the applications that
14 have been received at any office that was issuing EICs?

15 A. Say that again, please.

16 Q. Are -- is that -- No. 74, does that capture
17 all of the EICs that have been issued from any of the
18 offices that issue EICs?

19 A. To the best of my knowledge, yes.

20 Q. Can you look at the second page? Who decided
21 how to put together these graphs or what information
22 would be captured in these graphs?

23 A. I believe Ryan did that.

24 Q. Do you know how he made that decision?

25 A. Well, Ryan thought that might be information

1 that we could use and he offered it as a suggestion,
2 and I said it looked fine to me.

3 Q. Why is DPS tracking the number of applications
4 by race?

5 A. Well, it's in response to a number of queries.
6 We get queries from the media and we get queries from
7 the legislators, and sometimes they want that
8 information. And after discussion with Ryan, what we
9 felt was it was -- it was -- it was easier for us to
10 depict that information on the chart that you see in
11 front of you rather than to go back and query the
12 database each time we get a request like that.

13 Q. Has there been any analysis of these numbers,
14 the number of applications by race?

15 A. No, I'm not aware of any.

16 Q. Did DPS do any analysis to determine whether
17 the racial breakdown of EIC applications is consistent
18 with the demographics of Texas?

19 A. No, ma'am.

20 Q. What do you do with this overview?

21 A. We look at it. I mean, we really -- it was in
22 there. Ryan suggested it. I thought it was a good
23 idea. We -- we don't really -- we don't do anything
24 with it. We look at it. We depict it. That's it.

25 Q. In terms of this whole report, what -- what is

1 the purpose of this -- compiling this information into
2 an overview?

3 A. We -- we're asked periodically to provide this
4 information because -- because EIC is a topic that's
5 generated interest. We found it was easier for us to
6 go ahead, since we had the information, to -- to show
7 it on a chart. And that if way if -- for instance, if
8 Paul -- Deputy Assistant Director Watkins were going to
9 a meeting, I might print this and say, "If somebody
10 asks, here's the current status on the EICs."

11 Q. Is it shared with -- with anybody routinely
12 apart from special requests?

13 A. I don't know. I mean, you would have to
14 specify -- not -- not to my knowledge.

15 Q. Does it -- does it get sent to DPS Director
16 Steve McCraw?

17 A. I never have. I don't know.

18 Q. Does Mr. Peters see it regularly?

19 A. Mr. Peters sees it when I print it and provide
20 it to him. Sometimes he asks for it and sometimes he
21 doesn't.

22 Q. Does it get shared with any other state
23 agencies?

24 A. I've never shared it with another state
25 agency. I don't know of anyone who has.

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1 Q. Is it shared with the public?

2 A. The -- no. No, I don't think so. No, ma'am.

3 Q. Has this information been used to make any
4 changes to the EIC program?

5 A. No.

6 Q. To the best of your knowledge, has it been
7 used for any purpose?

8 A. It's just -- just to tell people where we are
9 and how many we've issued.

10 (Exhibit No. 79 marked.)

11 THE REPORTER: Exhibit 79.

12 Q. (BY MS. MARANZANO) I'm showing you what we've
13 marked as Exhibit 79 for the record. Do you recognize
14 this?

15 A. Yes.

16 Q. What is this?

17 A. This is an e-mail with an attachment that I
18 sent to Mr. Peters on the 17th of October.

19 Q. And what -- what is this attachment?

20 A. The attachment -- excuse me. The attachment
21 seems to be the tabs that we have -- that we -- that
22 are on our spreadsheet, the number of tabs on the
23 spreadsheet where we enter the EIC information.

24 Q. And you're referring to the same spreadsheet
25 that you talked about earlier?

1 A. Yes.

2 Q. Who does this report get sent to?

3 A. Well, it's not a report. It's a -- I mean --
4 remember, the way I think of the reports are something
5 that I write. So this is -- this is something that I
6 thought that AD Peters might need. And at that time in
7 the morning, I don't remember why I sent this one,
8 but --

9 Q. Is this information that's compiled regularly
10 or was this a onetime compilation?

11 A. By "regularly," what do you mean?

12 Q. Have you compiled this information more than
13 once?

14 A. Probably, yes.

15 Q. Do you compile it when people request it or is
16 there another reason that you compile this information?

17 A. We compile it when people request it or -- or
18 if I think that -- you know, if I'm going to a meeting
19 and I think I need it, or something along those lines.
20 But it's not a routine weekly occurrence.

21 Q. Can you look at the first page? There's
22 graphs on this page, number of applications by age and
23 number of applications by race. What are you using
24 this information for?

25 A. As I explained earlier, it's just the

1 information that -- that Ryan and I discussed and we
2 thought might be of interest. We don't use the
3 information really for anything.

4 Q. So would you say this information also has not
5 been used to make any assessments of the EIC program?

6 A. Yes, I would say that.

7 Q. Okay. Can you turn to the fourth page where
8 it has charts?

9 A. Charts? Are you talking about this page?

10 Q. That's the page --

11 A. Thank you.

12 Q. -- yes. And they -- you also have a list of
13 EIC applications. I assume -- actually, why don't you
14 tell me, what does that count represent?

15 A. Well, it hasn't got a header on it. So what I
16 believe it is is that that's the number of EICs that
17 have been issued to -- to various people. We've got
18 the counties that have been depicted from Anderson to
19 Zavala, we've got ages, we've got other demographics.

20 Q. And has the information on this page been used
21 to make any assessments of the EIC program?

22 A. No. Not to my knowledge, no.

23 Q. Can you turn to the next page, which is a
24 chart of individuals' names. What does this page
25 represent?

1 A. This page represents the number of EIC
2 applications. It's -- it's an actuality. It's more of
3 a status chart for internal use.

4 Q. What does the highlighting mean on this page?

5 A. Which color?

6 Q. Well, could you tell me what the yellow
7 highlighting means?

8 A. Yes. Well, the -- on the very top one it
9 says, "LRS Validated."

10 Q. Uh-huh.

11 A. That's the process that I described earlier
12 where with the license and records service --

13 Q. Uh-huh.

14 A. -- conducts the QA/QC. And then -- and then
15 orange directly below that on Line 10, that's a not
16 valid. That just means that we didn't issue that --
17 that driver correction, that -- that EIC. And the
18 yellow and the question mark under the "Type of
19 Station" on Line 29, that's just a question mark. It's
20 information that we just don't have. And for some
21 reason we weren't able to get it.

22 Q. So for those individuals who have the yellow
23 highlighted question mark, those are individuals where
24 DPS is unaware of the type of station that they
25 received the EIC from?

1 A. That's right.

2 Q. And on the -- if you could flip two more
3 pages, there's another list. Is this list the same
4 as -- is this the same as that we were just looking at?

5 A. Well, it looks like it has some of the same
6 data on it, but the -- the list with the -- the orange
7 highlighting -- not that one, but the other one that we
8 had talked about previously.

9 Q. The list we were just talking about --

10 A. Yes.

11 Q. -- and the list we were looking out now have
12 some of the --

13 A. It has some of the same information on it.
14 What -- what this appears to be, the first list, is it
15 appears to be a tracking chart so we can see where the
16 EIC is in the process in case anybody has asked. And
17 then what this list -- the shaded list that you're
18 looking at right now, what that appears to be is that
19 just appears to be the entry on the spreadsheet for the
20 customer that came to the office.

21 Q. And what -- what does the highlighting on this
22 second list mean?

23 A. The yellow highlighting?

24 Q. Yes.

25 A. I don't know.

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1 Q. Do you see that it's not the same highlighting
2 as what we looked at previously?

3 A. Well, it's yellow. I don't know why they --
4 they highlighted the application count column. I don't
5 know why they did that.

6 Q. The application count column is for only
7 certain individuals, correct?

8 A. Yes. I don't know why they did that.

9 Q. Is this -- is this chart -- or this group of
10 charts and tables shared with any other state agencies?

11 A. Not to my knowledge. I've never done it.
12 Nobody has asked me to.

13 Q. And is any of this information included in any
14 of these charts or tables used to evaluate the EIC
15 program?

16 A. No, ma'am.

17 MS. MARANZANO: Can we -- can we go off
18 the record for one moment?

19 MR. KEISTER: Sure.

20 (Discussion off the record.)

21 MS. MARANZANO: Let me have this marked.

22 (Exhibit No. 80 marked.)

23 THE REPORTER: Exhibit 80.

24 THE WITNESS: Do you want to give her my
25 stuff?

1 MR. KEISTER: You may need your tables or
2 your statutes.

3 MS. MARANZANO: Thank you.

4 MR. KEISTER: All right.

5 Q. (BY MS. MARANZANO) Okay. I am showing you
6 what we have marked as Exhibit 80.

7 A. Yes.

8 Q. Can you tell me what this is?

9 A. Yes. This is what we refer to as our EIC
10 dashboard. And by way of clarification, we have talked
11 about the way that we track EICs. And initially there
12 was a report. We referred to it as a push document,
13 push it out. This is the final evolution or the
14 current evolution, I suppose I should say, for how we
15 track our election certificates.

16 Q. Okay. And this is compiled from those reports
17 that you get that you push out; is that correct?

18 A. No.

19 Q. Can you repeat what you just said then?

20 A. Yes. I'll try. This is what we call the
21 EIC dashboard, and this is the -- the current evolution
22 of how we track election certificates.

23 Q. How frequently do you put together this
24 dashboard?

25 A. In order to answer that question I have to --

1 I have to do some explaining.

2 Q. Okay.

3 A. I mentioned that there's a SharePoint site.

4 Q. Uh-huh.

5 A. Okay. And our customer service

6 representatives have access to the SharePoint site, and

7 they enter -- on the SharePoint site they enter the

8 application data for customers that come to the office.

9 And once they update it there's a series of menus and

10 they go through their pull-down menus. And then

11 they -- they post it or they, you know, submit it. And

12 then that information updates a spreadsheet which is

13 kept on the SharePoint site, and from that spreadsheet

14 we derive this chart.

15 Q. Okay.

16 A. So it's not updated in the same manner as the

17 daily or the weekly reports that I would produce and

18 send. This is -- this document can be -- or is updated

19 or carries, I suppose is the best way to put it, near

20 realtime information. So if you go to an office in Bee

21 County, you get your EIC, the CSR puts it in there, and

22 it's updated.

23 Q. Who can access that information?

24 A. Any DPS employee and driver license division

25 has access to it in order to be able to update the

1 source document.

2 Q. And who at DPS headquarters can access that
3 information?

4 A. When you say "access the information," are you
5 referring to the charts or are you referring to the
6 underlying spreadsheet that's the source document for
7 the chart?

8 Q. The underlying spreadsheet.

9 A. We have that restricted. I -- I can't give
10 you an exhaustive list of who it's restricted to. And
11 the CSRs don't update the spreadsheet; they update the
12 SharePoint site, which updates the spreadsheet. Okay?
13 So I can look at the spreadsheet and a few people can
14 look at the spreadsheet, but we can access the
15 dashboard to print it for ourselves.

16 Q. Do you circulate the dashboard to anybody?

17 A. No. No, we don't. If somebody wants it and
18 they have access to the site, then they can -- they can
19 print their own. It's -- it's on the other side of the
20 DPS firewall, so only DPS personnel who have access
21 would be able to access the SharePoint site.

22 Q. Who decided what information to include in the
23 dashboard?

24 A. You have to understand that the -- this EIC
25 dashboard is an evolution of all the previous products,

1 so there's an element of, "Well, we had done it that
2 way before, so we're going to include it this way now."
3 And that's why the windows that you see are included in
4 here.

5 And -- and it also -- it's in response to
6 some -- sometimes we get media queries of how many
7 issues or how many applicants we had. And rather than
8 answer the question several times a day, it was just
9 easier for us to give Tom Vinger, or whoever was
10 answering the question, the link and allow them to view
11 it themselves.

12 Q. When -- when is this -- the information that's
13 on this dashboard that we're looking at, when is this
14 current as of?

15 A. If you remember the answer to my previous
16 question that I gave you.

17 Q. Uh-huh.

18 A. So when -- it's current as of the time that
19 you print it. Okay? But the information on the -- on
20 the spreadsheet, or whatever it is, is updated as soon
21 as the CSR updates the share point site.

22 Q. So I guess what I'm asking is, when was this
23 printed?

24 A. I don't know. It's whenever they printed it.
25 It's -- it doesn't say as of -- hang on a second. It

1 might say it somewhere. I don't know.

2 Q. What's done with -- with this information?

3 A. The same -- the same that we did with the --
4 with the other information. We had talked about we
5 look at it. If -- if somebody has a question, then we
6 provide them the information from it.

7 Q. Do you circulate this EIC dashboard in sort
8 of -- as we're looking at it, something like this? Not
9 the spreadsheet, but this compilation of the EIC
10 dashboard to any other state agencies?

11 A. No.

12 Q. Do you circulate any form of that, of the
13 information that goes into this EIC dashboard to other
14 state agencies?

15 A. No, ma'am, not to my knowledge.

16 Q. Do you use this EIC dashboard to evaluate your
17 EIC program?

18 A. No, ma'am.

19 Q. So you're collecting this information just in
20 case people ask for it?

21 A. That's essentially it.

22 Q. Has -- other than the press, have individuals
23 asked questions about information that's contained in
24 this EIC dashboard?

25 A. Sometimes we get questions from legislators,

1 and based on -- depending on what they ask, you can use
2 this to answer their questions. But we -- to my
3 knowledge, we've never provided this to a legislator.

4 Q. So this is an internal document that DPS uses
5 to answer questions, but DPS doesn't share this
6 document with others?

7 A. No, ma'am, not to my knowledge.

8 Q. Have legislators asked you for information
9 that's contained in here?

10 A. On occasion, yes.

11 Q. Do you know which ones?

12 A. I -- I don't recall any right now off the top
13 of my head, no.

14 Q. Is there -- was there any discussion of the
15 different information to categorize in this report?

16 A. I'm sure that we -- or I know that we talked
17 about some of the information.

18 Q. Do you know why you decided to do this graph
19 with the numbers -- and I'm looking on the --

20 A. I see it.

21 Q. -- fourth page --

22 A. Yes.

23 Q. -- the number of applicants by race.

24 A. No, that was -- that goes back to the
25 statement that I had made where it was something that

1 we had collected, and we continued just to collect it.
2 When you make a spreadsheet and you create the tables
3 from the spreadsheet, sometime it's easier just to keep
4 them, and we just hung onto them.

5 Q. Do you why you have that graph of the number
6 of applicants by age group?

7 A. No, that was just something we included.

8 Q. Okay. I want to circle back to something that
9 we talked about earlier.

10 (Exhibit No. 81 marked.)

11 THE REPORTER: Exhibit 81.

12 Q. (BY MS. MARANZANO) Does this look familiar to
13 you?

14 A. It's a birth certificate affidavit. We don't
15 use it.

16 Q. Have you seen this before?

17 A. Yes.

18 Q. When was that?

19 A. It was during our prep. I'm sorry.

20 MR. KEISTER: Beyond that.

21 Q. (BY MS. MARANZANO) Apart from any
22 conversations you had with counsel, did DPS at some
23 time consider using this affidavit instead of requiring
24 an individual to present a birth certificate?

25 A. They must have, yes.

1 Q. Do you have any awareness of that?

2 A. No.

3 Q. Do you have any knowledge of why this
4 affidavit is not used?

5 A. Well, we -- we asked for -- we asked for birth
6 certificates. I'm not sure what this would do for
7 anybody.

8 Q. Did you testify earlier that an individual who
9 didn't have a birth certificate could provide other
10 documentation, such as a -- well, you mentioned an
11 affidavit of somebody who was at their birth; is that
12 correct?

13 A. That's correct, but I think that I really
14 should have highlighted at that point in time that the
15 people who fall into that category are customers.
16 That's a very small number of people like that, and --
17 and so it's not something that we accept as a matter of
18 course or routine. There are provisions, to answer
19 your question.

20 If somebody was born and they didn't have
21 a birth certificate, they could, but I personally have
22 never dealt with it. I was instructed that that was
23 something that we could accept, but I've never dealt
24 with that in my time in DPS. And, to my knowledge,
25 none of my subordinates have ever had to deal with that

1 kind of an affidavit.

2 Q. And are -- you're saying it's a small number
3 of people who have never received a birth certificate?
4 Is that what you're saying?

5 A. I'm saying that there a small number of people
6 who come to our office who -- who don't have a birth
7 certificate.

8 Q. So your knowledge is based on what?

9 A. My knowledge of that?

10 Q. Uh-huh.

11 A. It's -- it's anecdotal and personal knowledge.

12 Q. What problems would there be in using this
13 affidavit in place of a birth certificate?

14 A. Well, you're asking an individual to say that
15 they are who they say they are independently.

16 Q. And why is that a problem?

17 A. Well, they may not be who they say they are.

18 Q. So --

19 A. It's not -- it's not something that we can
20 compare to anything. And there's -- there's no way for
21 us to connect the dots that I talked about before in
22 order to determine that the person who fills out the
23 application is actually who they say they are.

24 Q. And is it the case that this person would be
25 signing this certification essentially under oath that

1 they are who they say they are, correct?

2 A. That's what it looks like, yes.

3 Q. DPS determined that that was insufficient?

4 A. I -- yes.

5 Q. You were not a part of that determination?

6 A. I was not part of that decision.

7 Q. But is it the case that DPS uses this
8 affidavit now or would accept this affidavit?

9 A. We do not use that document.

10 Q. Did DPS consider a rule at any point that
11 would have allowed individuals to obtain an EIC without
12 bringing a birth certificate to the office, but
13 allowing DPS to connect to the Department of Vital
14 Statistics to access the birth records?

15 A. Not to my knowledge.

16 Q. You're not aware of any discussion of such a
17 possibility?

18 A. No.

19 Q. Would there be any technical impediment to
20 doing that?

21 A. I -- I don't know. I'm not -- I'm not a
22 technical person. I don't know how those things would
23 work.

24 Q. Are you aware of any other impediment that
25 would have existed to doing that?

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1 A. No.

2 Q. Okay.

3 (Exhibit No. 82 marked.)

4 THE REPORTER: Exhibit 82.

5 Q. (BY MS. MARANZANO) Okay. I'm showing you
6 what we have marked as Exhibit 82 for the record. Do
7 you recognize this?

8 A. I do.

9 Q. What is this?

10 A. This appears to be information that we derived
11 from our database, and it is a list of inquiries.

12 Q. And when is this current as of?

13 A. It's current as of whenever it was printed,
14 but that's not depicted on the document. It's whenever
15 they printed it.

16 Q. What's done with this list?

17 A. Well, other than bringing it here for you,
18 nothing. We look at it, but that's it.

19 Q. Does DPS do any follow-up with any of these
20 individuals?

21 A. Not to my knowledge, no.

22 Q. To your knowledge, it hasn't done any
23 follow-up with anybody on that list?

24 A. To my knowledge, no.

25 Q. Does it do any sort of analysis of the inquiry

1 descriptions?

2 A. No.

3 Q. Does it use this at all for training
4 employees?

5 A. No.

6 Q. Does it use this at all for any sort of
7 outreach or education?

8 A. No.

9 Q. Where is this information kept, in a database?

10 A. There's not a database. It's information
11 that's derived from the applications. It's on the
12 same -- it's on the same spreadsheet. So the CSR -- if
13 you remember, I explained to you earlier, a customer
14 comes in for an issuance, the CSR accesses the
15 SharePoint site. He enters the information relevant to
16 an issuance. Well, there's also a way to enter
17 information relevant to an issue, yes.

18 Q. Am I correct that when we looked at the weekly
19 reports earlier some of those reports had inquiries
20 without anybody's names listed?

21 A. I would have to go back, but I believe you're
22 correct.

23 Q. So what distinguishes an inquiry where a DPS
24 employee takes down the name?

25 A. Just that the DPS employee had -- had the

1 customer's name.

2 Q. So this -- this list of inquiries, which is
3 current as of some date -- we're not sure when --
4 wouldn't actually capture every inquiry that occurred.
5 Is that true?

6 A. What this appears to be are the inquiries for
7 2014.

8 Q. Uh-huh. But is it the inquiries where you had
9 the name -- the customer's name?

10 A. It's not -- it's not only -- if you look at
11 the second inquiry --

12 Q. Uh-huh.

13 A. -- it just says, "Customer had valid Texas ID
14 in 1981," but we didn't capture the customer's name.

15 Q. That's not Annabelle --

16 A. No. Modified -- modified by the DPS employee
17 who entered that information.

18 Q. I see, uh-huh. So this is every inquiry that
19 was captured in a weekly report by -- or captured by a
20 DPS employee?

21 A. No. This is -- this is -- these are the
22 inquiries that were captured in -- and these are -- I
23 don't know how exhaustive it is. These appear to be
24 the inquiries that were captured for 2014. We don't do
25 weekly reports anymore.

1 Q. Okay. And if somebody walks into a driver's
2 license office and just asks a couple of casual
3 questions, does that give -- about an EIC, would that
4 be reported in an inquiry?

5 A. It's supposed to be.

6 Q. Are you confident that it is?

7 A. Yes. I mean, within the scope of what we
8 talked about, there are errors for human -- human
9 errors. If the -- the CSR is distracted by something
10 else or some other incident occurs in the office, that
11 might not be entered into the database. But I'm
12 confident as a general rule that that's entered in
13 there.

14 Q. Can you take a look at --

15 THE REPORTER: Hold on just a second.
16 I'm trying not to cover up something.

17 Q. (BY MS. MARANZANO) I'm showing you what's
18 been marked for the record --

19 THE REPORTER: Exhibit 83.

20 Q. (BY MS. MARANZANO) -- as Exhibit 83. Do you
21 recognize this document?

22 A. It's a good thing that I wear trifocals, yes.

23 Q. And what is this?

24 A. This is a printout of -- I can't tell you if
25 it's the entire spreadsheet that we use or a portion of

1 it, but it appears to be a printout of -- of the
2 spreadsheet where we keep all of the EIC issuance
3 information.

4 Q. And can you tell me when this is current as
5 of?

6 A. It's -- no, it's the same -- it's the same
7 answer for the other documents, and I don't know. I
8 can't tell from looking at it.

9 MR. KEISTER: Counsel, just if you want
10 to know, all these were printed Tuesday, so -- on that
11 day. So they're current this week or whatever.

12 MS. MARANZANO: Okay. Thank you for that
13 clarification.

14 MR. KEISTER: I think it was Monday; it
15 could have been Tuesday.

16 THE WITNESS: Don't get me to start
17 saying anything.

18 Q. (BY MS. MARANZANO) Have you used this chart
19 for any -- anything related to the EIC program?

20 A. This chart?

21 Q. Yes.

22 A. No, ma'am.

23 Q. Have you focused any outreach efforts or any
24 staffing efforts where more EICs are issued?

25 A. No, ma'am.

1 Q. You haven't used this chart for any -- or the
2 information contained in the chart for any assessments
3 of the EIC program?

4 A. No.

5 Q. Would you consider the EIC program to be a
6 success?

7 A. You're asking me to provide you with my
8 opinion?

9 Q. Yes.

10 A. In my opinion, it's been a success, yes.

11 Q. And what are you basing that on?

12 A. I'm basing that on the fact that we were able
13 to provide the opportunity for Texans in all
14 254 counties to get an EIC.

15 Q. Is accessibility of places to obtain an EIC a
16 factor in determining whether the program is a success?

17 A. I don't understand what kind of accessibility
18 you're talking about.

19 Q. Is the number of places issuing EICs a factor
20 in determining whether the program is a success?

21 A. The number in and of itself?

22 Q. Uh-huh.

23 A. No, I don't believe so.

24 Q. Is the number of EICs issued a factor in
25 determining whether it's a success?

1 A. No, I don't believe so.

2 Q. Have you received any complaints from DPS
3 employees about the EIC program?

4 A. I have not, no.

5 Q. Now that you've been sort of overseeing --

6 A. Tenderized?

7 Q. -- the EIC program for about a year, how --
8 how would you say you find the additional
9 responsibility in terms of your workload?

10 A. Well, it's -- it's cyclic and the hours that I
11 put in at DPS aren't much different. In many ways
12 they're easier than the hours that I've put in working
13 at other places.

14 Q. Has it impacted your ability to deal with
15 other responsibilities that you have at DPS?

16 A. That's a discussion you have to have with my
17 boss.

18 Q. Fair enough. Okay.

19 MS. MARANZANO: At this time I will pass
20 the witness.

21 THE WITNESS: Okay.

22 MS. MARANZANO: Thank you.

23 THE WITNESS: Thank you. Can I get a
24 break?

25 MR. KEISTER: Yeah.

1 (Recess from 2:01 p.m. to 2:13 p.m.)

2 THE REPORTER: On the record.

3 EXAMINATION

4 BY MR. BRAZIL:

5 Q. Good afternoon.

6 A. Hi.

7 Q. I just want to follow-up on a few areas that
8 you touched on in earlier testimony. You talked about
9 the equipment of the mobile EIC stations or units. Do
10 you recall that?

11 A. I do.

12 Q. Okay. Can you describe what equipment exactly
13 makes up one of the mobile units?

14 A. I don't know if I can do it exactly.

15 Q. Sure.

16 A. I'll give you the best I can. So a mobile
17 unit will consist of a laptop computer, a printer.
18 There's a number of forms -- DPS forms necessary to
19 issue EICs. There will be a ream of paper. There's a
20 tripod, a camera, a digital camera. The connections,
21 the cables, and that stuff that makes all that business
22 work. There's a -- there's a blue screen that we -- we
23 use as a backdrop for the photographs that we take.
24 There's a tripod for that or some kind of a stand. I
25 don't know if it's a tripod or not. There's the tubs

1 to put it in. And -- and depending whether it is a
2 county EIC unit or a DPS EIC unit, it will have a cell
3 phone. If it's a DPS EIC unit, it will have a DPS
4 issued cell phone with phone numbers entered into for
5 the ease of the CSRs. I can't recall if we still give
6 the -- the CSRs a dolly to carry -- there were
7 complaints about that. They didn't like our dollies
8 because the boxes were light. And if there's a dolly,
9 then there's going to be bungee cords. So, to the best
10 of my knowledge, that's an EIC mobile unit.

11 Q. The laptop, is it connected to any DPS
12 databank --

13 A. No, sir.

14 Q. -- remotely?

15 A. No, sir.

16 Q. So it's a standalone laptop?

17 A. The laptop has been configured by our IT
18 people so that it is not able to connect to anything.

19 Q. Okay. And how many of those mobile units were
20 established by DPS, approximately?

21 A. So, to the best of my knowledge, the Phase 2
22 EICs -- EIC mobile units were -- there were 25 of them.
23 And the Phase 3, which are the county EIC units, I
24 can't remember if there were 78 or 79 of them. There
25 were somewhere around 80. I can't remember if we kept

1 one to do -- to use -- it's called bench testing. So
2 they -- our tech people are, you know, running tests on
3 it to make sure that the applications work properly,
4 and that would be called what's called the bench test
5 unit. There's somewhere around 80 of those.

6 Q. When you say 80, you're talking about the
7 county mobile units?

8 A. Yes.

9 Q. And how do you distinguish between a DPS
10 mobile unit and a county mobile unit?

11 A. The only distinction -- in reality, the only
12 distinction is the inclusion of the cell phone that I
13 mentioned earlier.

14 Q. That's the only difference?

15 A. To the best of my recollection, yes, sir.

16 Q. And of the approximately 80 county units, are
17 those permanent? I mean, are they given to the county
18 permanently or are they retrieved by DPS after the
19 county has finished using them?

20 A. The 80 units or so that that were provided to
21 the counties, the counties don't own them. The State
22 of Texas owns them. And I don't -- I don't recall if
23 Secretary of State actually paid for them or DPS did.
24 That part I don't know. But those units are provided
25 to the county. The county inventories them and they

1 are responsible for them.

2 Q. So they keep the units as long as they need
3 them?

4 A. They maintain the units, yes, sir.

5 Q. Okay. Are they charged any fee, rental or
6 otherwise, by DPS or the Secretary of State's office
7 for these mobile units?

8 A. No, sir. We even provide toner cartridges if
9 they need them.

10 Q. Do you know what the approximate cost of each
11 unit was to the State?

12 A. I knew at one time. I don't know now. I
13 don't recall the cost of the unit.

14 Q. Do you have a range, like \$5,000 to \$10,000
15 or --

16 A. I couldn't even speculate because there were
17 all kinds of peripherals. I don't know.

18 Q. What about the total of cost of all,
19 approximately, 105 mobile units?

20 A. No, sir, I don't know.

21 Q. Did some of the counties already have some of
22 the equipment that they could use as part of the mobile
23 units? For example, paper, printer, laptop, things
24 like that?

25 A. No.

1 Q. I'm sorry?

2 A. No.

3 Q. And the 80 -- approximately 80 county units,
4 were those given to certain counties or were they given
5 to counties that requested them or how did that work?
6 How did you determine -- or how did DPS determine who
7 got the 80 mobile units?

8 A. DPS reached out to the counties that do not
9 have driver license offices. There are 78 counties
10 that do not have driver license offices in the state.
11 And there was a letter -- I can't recall if A.D. Peters
12 signed it or not, but that letter established that I
13 was the point of contact and that letter went out to --
14 to the counties. I can't recall exactly who -- I can't
15 remember if it was the county commissioners or the
16 county judge, but it went to -- it went to a county
17 official to make them aware of -- of the availability
18 of these the units.

19 Q. Did all of the counties that did not have a
20 driver's license office accept one of the mobile units?

21 A. No, sir.

22 Q. So did some of the counties take more than
23 one?

24 A. No, sir.

25 Q. Okay. So some of these 80 units went to

1 counties that had a driver's license office?

2 A. No, sir.

3 Q. So what happened to the other --

4 A. DPS maintains the control of those units.

5 Q. And they're available if a county asks for
6 them today?

7 A. If a county were to ask for them and the
8 county didn't have a driver license office and the
9 county returned a memorandum of understanding signed by
10 the county judge and they participated in the training
11 to operate the unit, then we would provide the mobile
12 unit to the county.

13 Q. How many counties that did not have a driver's
14 license office not accept the training and not accept
15 one of the mobile units?

16 A. I would have to refer to one of our -- one of
17 our charts. The number is -- is relatively small. I
18 believe, to the best of my recollection, it's 17.

19 Q. 17, approximately?

20 A. Approximately, yes, sir.

21 Q. You also spoke earlier about the EIC database
22 is kept separate from the driver's license database?

23 A. So within the driver license system, okay,
24 that we use when we're issuing driver licenses or ID
25 cards, the EIC database, it's a separate tab and that's

1 kept separately.

2 Q. Okay. So -- but the overall driver's license
3 database has within it EIC information?

4 A. That's -- that's not an accurate statement.

5 Q. Okay. I didn't think it was. I was asking
6 you to explain it to me. I didn't understand it
7 earlier.

8 A. Yes, sir, I'll try. When -- when the system
9 was -- when the driver license system that we use for
10 our offices was configured and EIC was added into it,
11 the information in that was placed -- it's maintained
12 in a separate database. It's not accessible -- the
13 document in that database are not accessible to driver
14 license personnel unless they have special access to
15 that.

16 Q. Okay. That explains it. Now, what about the
17 CHL, is that a separate database?

18 A. Yes, sir. And it's separate and distinct from
19 driver license. It's maintained by another -- another
20 department in -- in DPS.

21 Q. What department maintains the CHL database?

22 A. To the best of my knowledge, it's called RSD.
23 It's Regulatory Services Division.

24 Q. Okay. Does -- now, we know the EIC forms have
25 a box or category for race, correct?

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1 A. Yes.

2 Q. Okay. What about the driver's license
3 database and those forms, is there a place for someone
4 to designate their race?

5 A. Yes.

6 Q. And what about the CHL?

7 A. I don't recall.

8 Q. Can you search the driver's license database
9 by race?

10 A. I don't know.

11 Q. What about the EIC?

12 A. I don't think so, no, sir. I don't know that
13 either.

14 Q. So the form -- even though the form on the EIC
15 has a box for race, is that not inputted into the
16 database?

17 A. Yes.

18 Q. It is?

19 A. Yes, but I don't know -- I don't know the
20 searchability of the database.

21 Q. Fair enough. It is inputted, though?

22 A. Yes.

23 Q. Okay. That's all I have. Thank you.

24 A. Thank you.

25 MS. KORGAONKAR: Before I start, could

1 you just let me know how much time we have.

2 THE REPORTER: Off the record.

3 (Discussion off the record.)

4 THE REPORTER: Back on the record.

5 EXAMINATION

6 BY MS. KORGAONKAR:

7 Q. Good afternoon, Mr. Rodriguez. I understand
8 it's late in the day and you're probably a little bit
9 tired.

10 A. Not at all.

11 Q. So my name is Natasha Korgaonkar, just to
12 reintroduce myself, from the NAACP Legal Defense Fund.
13 In this case, I represent the Texas League of Young
14 Voters and two individual plaintiffs, Imani Clark and
15 Michelle Bessiack.

16 So Ms. Maranzano has been asking you, and
17 Mr. Brazil as well, a series of questions. I'm going
18 to continue that series of questions on a slightly
19 different topic. It's Topics 3 and 4 from the notice,
20 which you testified earlier today that you were
21 prepared for. I just want to remind you that you're
22 still under oath and you're required to answer all of
23 the questions as truthfully and completely as you were
24 this morning, okay?

25 A. That's fine.

1 Q. Is it correct that DPS is the only state
2 agency that can issue EICs?

3 A. Yes.

4 Q. Okay. Now, I would like to hand you an
5 exhibit. I'll give you a moment to review it.

6 (Exhibit No. 84 marked.)

7 THE REPORTER: Exhibit 84.

8 (Discussion off the record.)

9 Q. (BY MS. KORGAONKAR) Exhibit 84 is
10 Bates-stamped TEX-0511323, for the record. When you've
11 had a minute to look at it, if you could just let me
12 know.

13 A. Okay.

14 Q. Okay. Have you seen this document before?

15 A. Yes, ma'am.

16 Q. Okay. And what is this document?

17 A. Well, it appears to be an e-mail from me to
18 the leadership and the -- the driver license leadership
19 and the different driver license regions about EIC
20 reporting -- information reporting requirements.

21 Q. And are these the regions for which you're
22 responsible?

23 A. In part.

24 Q. And what do you mean by that?

25 A. As I explained previously, I'm responsible for

1 DPS Regions 3, 4, 5, 6A and 6B, and this is all of the
2 DPS Regions 1 through 6B.

3 Q. Okay. So these include regions that your
4 colleague, Mr. Bell, also supervises; is that right?

5 A. Yes, ma'am.

6 Q. Okay. And could you just read the first
7 sentence of this e-mail?

8 A. Sure. "Folks, EICs are becoming a big deal
9 now and the information requirements are tightening
10 up."

11 Q. Okay. So what did you mean when you said that
12 EICs were becoming a big deal?

13 A. It means that -- that people were asking about
14 them and the quality of information that I was getting
15 needed to be increased. And that's why, if you look
16 further down in the e-mail, I'm asking for additional
17 information, specifically the date, the office name and
18 the station number, and a narrative for each of the
19 issuances. And I sent this because -- because we were
20 getting different information from different regions.

21 Q. And who was asking for the information that
22 you're now requesting?

23 A. Me.

24 Q. Aside from you, was there anyone else?

25 A. No. I collected the information and I

1 provided it to -- to my chain of command.

2 Q. And, to your knowledge, was it only provided
3 to your chain of command within DPS or did it go
4 outside of DPS as well?

5 A. To my knowledge, it went to my chain of
6 command, and that would be Paul Watkins and A.D.
7 Peters.

8 Q. Okay. And could you tell me what you meant by
9 "tightening up"? It seems like there's a change in the
10 requirements. I guess what I'm trying to get at is
11 what were the requirements before and then what
12 happened?

13 A. I would have to see -- I would have to see
14 whatever I had sent out previously.

15 Q. Okay. As far as you can recall.

16 A. As near as I can recall, they -- obviously,
17 since I had asked for it, the regions were not
18 including the office name or the station number. And
19 then that would -- then the narrative -- I mean, they
20 may have been providing a narrative.

21 Q. Okay.

22 A. Because if you look at the example, it lays
23 out what I was looking for.

24 Q. And in the last sentence, you wrote, "The
25 clearer you make this up front, the fewer follow-up

1 phone calls we have to have."

2 A. Yeah.

3 Q. Is that right?

4 A. Yes, ma'am.

5 Q. What -- what exactly did you mean by that?

6 A. If I got information from a region that --
7 that was -- was incomplete, then I would have to call
8 them.

9 Q. You would have to call them in order to
10 complete the information, right?

11 A. To find out what the information was.

12 Q. And why would you have to do that?

13 A. Well, because I was in charge of the program
14 and I viewed it as my responsibility to provide as
15 complete information as I could get to my chain of
16 command.

17 Q. Okay. And was there a problem with phone --
18 you mentioned fewer follow-up phone calls. At the
19 time, were there too many follow-up phone calls, as far
20 as you can remember?

21 A. Well, when you're trying to call nine people
22 about something it consumes a fair amount of your time.

23 Q. Okay, fair enough. And when the information
24 requirements changed, do you recall where you got the
25 change information from or -- that's a confusing

1 question.

2 A. Yes.

3 Q. Did someone ask that the information
4 requirements be changed?

5 A. No, I decided.

6 Q. And you decided for what purpose?

7 A. I decided to ensure that we had more
8 continuity of the information and clarity and quality.

9 Q. Okay. You can set that document aside for
10 now.

11 A. I'll keep them in order.

12 Q. Okay. Currently, what are all of the types of
13 places that someone can apply for an EIC?

14 A. A customer can get -- can apply for an EIC in
15 a driver license office. They can apply for an EIC at
16 a mobile location that's operated by DPS employees.
17 They can go and they can apply -- in some -- in some of
18 the counties that I've touched on before, the counties
19 that don't have driver license offices that have
20 entered into the memorandum of understanding with DPS,
21 they can go to wherever that county is designated for
22 EIC issuance. And the Secretary of State has some
23 mobile units and they can go to a location where the
24 Secretary of State are conducting mobile operations and
25 they can apply for an election certificate there.

1 Q. Okay. So just for my understanding, the
2 mobile units that are operated by DPS are different
3 from the mobile units that are operated by the
4 Secretary of State?

5 A. The -- those units -- with the exception of
6 the cell phone, those are the same units. The cell
7 phone is the only change in terms of equipment.

8 Q. But in terms of who is organizing the
9 availability of those units --

10 A. The Secretary of State has units and
11 they can -- we maintain the units. They tell us where
12 they're going to go and our employees bring the unit to
13 that location. The Secretary of State operates the
14 unit. They set it up, they operate it.

15 Q. Okay. So for that category, I'll call them
16 the Secretary of State mobile units.

17 A. Okay.

18 Q. The DPS's responsibility is to bring the
19 equipment to a place that the Secretary of State has
20 designated to set up and then it's operated entirely by
21 the Secretary of State from that point on or does a DPS
22 employee remain?

23 A. Depending on where it is, the DPS employee may
24 or may not remain because we -- we did train a number
25 of Secretary of State personnel. Some of them are less

1 confident in their ability to issue and, in that case,
2 we have instructed our employees to remain to help to
3 make sure that it's done properly.

4 Q. Okay. And why are some of them less
5 confident?

6 A. We're asking them to do something they've
7 never done before. It would be as if I were to give
8 you an eight-hour block of instruction and send you out
9 by yourself.

10 Q. Right.

11 A. You would want someone who has done it before
12 to go with you.

13 Q. Is it right that most of the Secretary of
14 State employees have probably not done any kind of
15 licensing, at least in their job in the Secretary of
16 State's office?

17 A. I don't know what their jobs entail, so I
18 wouldn't want to speculate.

19 Q. Okay. Has -- to your knowledge, has the --
20 has the biggest problem been that they don't issue
21 usually issue any kind of licenses the way that DPS
22 employees do with frequency?

23 A. I wouldn't categorize it as a problem.

24 Q. Or the source of a lack of confidence, as you
25 called it earlier?

1 A. I don't know. I mean, it's -- it's difficult
2 for me to categorize what somebody is thinking. I hate
3 to be imprecise. If you could help me -- rephrase the
4 question and I can try and answer it better.

5 Q. It's just a very simple point. So I
6 understand from your testimony, but correct if I'm
7 mistaken, that for these Secretary of State operated
8 mobile units, you have perceived -- or DPS has
9 perceived that some of the Secretary of State employees
10 who are manning them are a little bit less confident
11 than DPS employees when they man the DPS mobile units?

12 A. Well, that's not entirely an accurate
13 statement. And if I said that, that's not what I
14 meant. Depending on the distances involved, our
15 employees will bring the unit out there and will link
16 up with the Secretary of State employees. And then
17 there could be a variety of reasons they stay. They
18 might not want to drive back six hours. They might
19 stay and help out.

20 Q. Okay.

21 A. Or -- or the Secretary of State personnel can
22 say, "Please stay," in which case we're happy to do
23 that.

24 Q. All right, fair enough. Are there -- so you
25 listed out four different categories of places where

1 people right now can apply for EICs. Are there
2 currently any plans, that you're aware of, to expand
3 that list of categories?

4 A. Yes.

5 Q. And what are some of -- or what are all of
6 those plans right now, as you know them?

7 A. As I know the plans is that we -- we are in
8 the process or we have -- I can't remember if we have
9 trained them all or not. But we have provided training
10 for a number of Health and Human Services employees who
11 are in seven counties around the State.

12 Q. And those employees, have they been trained to
13 man mobile stations, mobile EIC units?

14 A. The equipment that we have -- the equipment
15 that we have leftover was part of the original 80 that
16 we purchased for counties, okay.

17 Q. Uh-huh.

18 A. So we didn't go out and buy new. We have got
19 this equipment that still -- it's been -- we still have
20 it. So if the -- if the seven HHSC county employees,
21 if they are going to use the equipment, it would be
22 the -- part of the original 80 or so that we purchased
23 as part of the county -- the county effort.

24 Q. Okay. And do you know which counties those
25 seven are?

1 A. I would have to refer to a map. I mean, we
2 have that, but --

3 Q. You don't remember offhand any of them?

4 A. Garza is one that I remember, yeah.

5 Q. Garza is one of them?

6 A. It's Garza, Blanco, and then there are some
7 other ones. Off the top of my head, those are the ones
8 I can recall.

9 Q. Okay. And what is the timeframe for those
10 seven counties to be participating in the mobile
11 program through these HHS employees?

12 A. When do we think they're going to be issuing
13 EICs?

14 Q. Or accepting applications.

15 A. I don't know yet. I don't -- I don't have
16 that information.

17 Q. How did those seven counties get chosen or how
18 did they come about to be the ones?

19 A. Those were counties in which we did not have
20 an existing driver license office.

21 Q. Okay.

22 A. So it was part of the 78 counties that didn't
23 have any. And there were discussions at senior levels
24 between DPS and HHSC to determine if there were -- if
25 HHSC had a presence in some of those locations. It

1 turned out that it was -- or they did.

2 Q. Do you know approximately when those
3 conversations started?

4 A. I wasn't a party to them. I don't know. I
5 know that I spoke with a gentleman named Rolando Garza
6 in probably March -- maybe March.

7 Q. Okay. So early spring of this year, to your
8 knowledge?

9 A. To my knowledge, yes.

10 Q. Okay. And any other plans for expanding the
11 types of places where a person could get an EIC,
12 besides the one that you listed so far?

13 A. Not at the present time.

14 Q. Okay. So I would like to get just a general
15 sense of the current availability of places where
16 people can apply for EICs, and I would like to start
17 with the brick and mortar DPS locations generally.

18 So how many DPS offices are there in
19 Texas?

20 A. 229.

21 Q. 229. How many driver's license offices are
22 there?

23 A. I'm sorry. There are 229 driver license
24 offices in the State of Texas.

25 Q. Do you know approximately how many DPS

1 offices?

2 A. No, I don't. I'm not a facility person. I
3 wouldn't speculate.

4 Q. Okay. And just for the sake of clarity, what
5 is the difference between a DPS office and a driver's
6 license office?

7 A. Certainly. A DPS office is a facility that's
8 operated by DPS. It may have -- it may have highway
9 patrol. It may have Texas Rangers. It may be a
10 maintenance point. It may be nothing more than a
11 communications building or it could be a driver license
12 office. We're a large agency. We have a lot of
13 other -- a lot of subdivisions within the agency and
14 they could crew some of our offices. And then we also
15 have some offices that -- in which all of those
16 entities or portions of those entities work together.

17 Q. Okay. And how many counties don't have a
18 driver's license office? Is it around 79 or 80?

19 A. 78.

20 Q. 78, okay. Are there counties that you know of
21 that have no DPS office at all?

22 A. I don't know.

23 Q. Why do some counties not have driver's license
24 offices?

25 A. Well, there's a variety of reasons. The

1 population of the county. The availability of
2 equipment to send to counties. Other resources.

3 Q. So what do you mean when you say "the
4 availability of equipment"?

5 A. We have a -- our driver license equipment and
6 we have purchased that after -- well, after our old
7 equipment was so obsolete that it ceased to function.
8 So we purchased a given number of sets, and with those
9 given number of sets we can only equip so many offices.

10 Q. And do you know around what time it was that
11 the old equipment, it sounds like, went obsolete, just
12 a rough timeframe?

13 A. It was -- to the best of my knowledge, it was
14 somewhere around 2009.

15 Q. Okay. So did certain counties before 2009
16 have functioning driver's license offices that then
17 closed and have not since reopened because of the
18 problem with the equipment?

19 A. I believe so, yes.

20 Q. And you also mentioned population was one of
21 the reasons that some of these counties may not have
22 driver's license offices. Can you tell me what you
23 meant by that?

24 A. Well, an example is Loving County where they
25 have fewer than 100 people. From a business process

1 standpoint, it doesn't make -- it doesn't make much
2 business sense to put an office out in Loving County.

3 Q. And who is making the decisions about whether
4 it makes sense from a business standpoint?

5 A. Ultimately, within driver license, it's A.D.
6 Peters based on the recommendation of the staff.

7 Q. Okay. And, similarly -- I should have asked
8 this a minute ago. But when it came to deciding which
9 counties would receive the updated equipment around
10 2009 or so, do you know who made the decision about
11 which counties would get the updated equipment?

12 A. So we have had -- we have had two sets of
13 updated equipment. So we switched in 2009 and we just
14 switched now to the current -- the current equipment
15 that we have. But the decision was made by driver
16 license leadership. It would have been the A.D. at the
17 time, which was Rebecca Davio, or now for the
18 current -- current equipment, it's A.D. Peters.

19 Q. In your professional opinion, are there some
20 counties where it might make sense to have driver's
21 license offices but that don't right now?

22 A. Well, I wouldn't want to -- to speculate,
23 other than to say that I think that the number of
24 offices that we have matches the population density and
25 the business that we -- we currently experience in our

1 offices.

2 Q. So right -- is it correct to say that right
3 now, you don't feel there are any places where it might
4 make sense to have a driver's license office, but that,
5 at least at this moment, don't?

6 A. None come to mind right now.

7 Q. Okay. Can all driver's license offices, all
8 229 of them, issue EICs?

9 A. Yes.

10 Q. And how long has that been accurate?

11 A. Well, it was -- it was accurate from when we
12 were asked to -- to start the program.

13 Q. When was that, roughly?

14 A. Late June.

15 Q. Has that been true continuously of all 229
16 since late June?

17 A. Yes.

18 Q. Okay. Who sets the hours for these driver's
19 license offices?

20 A. The -- the hours are -- in general, they're
21 set by headquarters in Austin, and there are some local
22 variations.

23 Q. Okay. So in terms of the hours that are set
24 in Austin, which division of DPS is it that sets those
25 hours?

1 A. That would be the Driver License Division who
2 sets the driver license operation -- operating hours.

3 Q. And do you have a role in that?

4 A. I have an advisory role, yes.

5 Q. So what factors go into considering the hours
6 for the license offices?

7 A. Well, it's -- it's the population, customer
8 flow, the number of transactions, drive -- number of
9 drive tests.

10 Q. And would you say that all of those factors
11 factor in about equally?

12 A. Well, we have -- generally speaking, we have a
13 standard set of hours. The only real variations are in
14 smaller offices.

15 Q. Is that -- are those the variations that you
16 said were the second group, the ones that have some
17 local variations?

18 A. Yes.

19 Q. Okay. And when -- when local hours vary to
20 those local offices, say an office wants to expand or
21 truncate the hours that they're open, do they need
22 permission from Austin?

23 A. They -- the permission is routed through the
24 chain of command, yes.

25 Q. So they do?

1 A. Yes.

2 Q. Okay.

3 A. But I haven't seen any truncation of hours.

4 You have to understand that the hours, especially in
5 rural offices, generally speaking, are based on travel
6 time. So if we're asking an employee to travel to an
7 office to conduct business and there's banking and
8 stuff that needs to be done at the close of business
9 day, and so that's what sets the hours. It's a
10 decision that we make based on that information.

11 Q. So it's a decision based on information that
12 you may receive from the local employee about what they
13 think is the -- makes the most sense for their office?

14 A. No.

15 Q. Correct me. Tell me how it works.

16 A. Okay. So there's a dialogue that occurs
17 between the -- the CSR and the office supervisor and
18 the regional manager. And based on that dialogue, the
19 regional manager contacts me and we discuss the hours.

20 Q. And, in general, what is -- what is the
21 dialogue about?

22 A. Well, it would depend on the office,
23 obviously. But it would be -- it would be, "I have a
24 two-hour drive to get to Office X and a two-hour drive
25 to get back at the close of the day. If you're okay

1 with it, I would like to set the hours to open at such
2 and such time with a lunch and then a dinner or to
3 close the doors at another time."

4 Q. And when the decision ultimately comes to you
5 to approve, what do you think about when you're
6 deciding whether it makes sense for the hours to change
7 in X or Y way?

8 A. It depends on -- it depends on the location of
9 the office and the -- and the discussion that I have
10 with the -- with the manager. But, generally speaking,
11 I'm concerned about servicing the public. That's our
12 job. And I'm also concerned about what we're asking
13 the employee to do and the number of hours we're asking
14 them to work over a given period of time.

15 Q. So when you say that it depends on the
16 location, is that -- do you mean the location with
17 respect to wherever that employee would need to come
18 from?

19 A. The location of the office, yes.

20 Q. But the location -- for what purpose? You
21 mentioned earlier that some employee might need to
22 drive two hours, it might take them some time to get
23 there.

24 A. Sure.

25 Q. And then when you say "location," I also think

1 about population, which varies, obviously, based on the
2 location. So when you say that you -- one of things
3 that you consider is the location, what about the
4 location?

5 A. It's -- it's where the location of the office
6 is relative to where the employee is coming from.

7 Q. Okay. So for the 229 driver's license
8 offices, is it right that none of them needed to opt in
9 or opt out of the EIC program?

10 A. No. That was an assignment they were given.

11 Q. Okay. So there was no discretion. All 229 of
12 the actual driver's license offices have issued EICs
13 from the end of June through the present?

14 A. Well, I don't know if each office had issued
15 one, but they all have the capability to issue an EIC.

16 Q. Okay. Has DPS conducted any studies into the
17 relative distances that the EIC applicants or just the
18 people at large might travel in order to go to a place
19 where they can get an EIC application?

20 A. I don't know if you would call it a study.
21 There are a couple of map charts, PowerPoint slides
22 that were produced that indicate -- to the best of my
23 knowledge, one of them showed the location of offices
24 with a 25-mile circle and one of them showed the
25 location of our offices with a 50-mile circle radius

1 around the office.

2 Q. Okay. I think that this next exhibit is what
3 you are describing.

4 THE REPORTER: Is it both pages?

5 MS. KORGAONKAR: Yes.

6 THE REPORTER: Don't we already have this
7 as an exhibit?

8 (Discussion off the record.)

9 (Exhibit No. 85 marked.)

10 THE REPORTER: Exhibit 85.

11 Q. (BY MS. KORGAONKAR) Take a moment to look at
12 it and let me know when you're ready.

13 A. Okay.

14 Q. Have you seen this document before?

15 A. Yes.

16 Q. And is this the type of document that you
17 referred to just a minute ago?

18 A. Yes, ma'am, it is.

19 Q. Okay. So tell me a little bit about who
20 prepared the document and just where it came from.

21 A. Well, the gentleman who prepared it is named
22 Christopher Krueger. He is one of our strategic
23 analysts in Driver License Division.

24 Q. Okay. And why did he prepare this?

25 A. I'm sure he was asked to prepare it, and I

1 don't remember who directed its preparation.

2 Q. Okay. And do you know for what -- for what
3 purpose?

4 A. Merely to depict the radiuses -- the 25-mile
5 radiuses around driver license offices or -- or the
6 50-mile radius around the offices relative to
7 population.

8 Q. But it wasn't -- it wasn't prepared with a
9 specific goal in mind, other than to prepare it?

10 A. Well, again, I wasn't -- I wasn't party to the
11 decision to why it came about. I know that it was done
12 just to show the distances that the percentage of the
13 population is from the -- from one of our offices in
14 either 50 or 25 miles.

15 Q. So was there something happening at DPS in
16 September that made this a useful document for someone
17 to -- to direct Mr. Krueger to create?

18 A. I'm sure there was. I can't -- I can't
19 recall. I don't -- I don't know.

20 Q. Okay. Could it have been related to --

21 A. EICs?

22 Q. -- DPS offices and EICs?

23 A. Let's see. It could have been, yes.

24 Q. And do you -- do you know whether there are
25 any similar maps like this that were -- that either

1 predate this one from September or that postdate it or
2 was this the only one like this created?

3 A. For EICs?

4 Q. Well, of this document. Do you need to me to
5 clarify?

6 A. The reason I asked is because there is another
7 chart that we use for a different thing. We use it to
8 figure out where the offices are for commercial driver
9 licenses. It's in no way related to CELs, but I've
10 seen similar documents. But it deals with commercial
11 driver licenses, not EICs. That's why I was --

12 Q. No, I appreciate that. So I'll limit it. I
13 just mean, is there another document like this that
14 would have been prepared for the purposes of EICs?

15 A. Not to my knowledge. I don't know.

16 Q. Okay. So, to your knowledge, this is the only
17 one --

18 A. As far as I know.

19 Q. -- this one from September?

20 A. Yes, ma'am, as far as I know.

21 Q. All right. And after you received this
22 document, did you or anyone else at DPS think about
23 what this may have shown in terms of EIC availability
24 in Texas?

25 A. Well, I'm sure we had a meeting, but I don't

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1 recall the discussion internal to the meeting. I know
2 I've seen it, but that's as good as I can tell you
3 right now.

4 Q. That's fine. Can you recall who would have
5 been at such a meeting in addition to you?

6 A. Sure. That would be -- probably would be A.D.
7 Peters; Paul Watkins; Deputy Assistant Director JoeAnna
8 Mastracchio; Krueger, of course; Steve Bell, the other
9 guy. Other than that --

10 Q. Do you think anyone from outside of DPS might
11 have been there?

12 A. No, I don't think so.

13 Q. And do you know whether this -- whether this
14 map was forwarded outside of the agency?

15 A. I don't know.

16 Q. Do you think anyone at DPS would know?

17 A. I don't know.

18 Q. Okay. You can set this one aside. I'm going
19 to hand you the next exhibit.

20 THE REPORTER: Do they go together?

21 MS. KORGAONKAR: They do. It's an e-mail
22 and the attachment to that e-mail.

23 THE REPORTER: So staple it?

24 MS. KORGAONKAR: Please. Sorry that they
25 were not stapled.

1 (Exhibit No. 86 marked.)

2 THE REPORTER: Exhibit 86.

3 Q. (BY MS. KORGAONKAR) Just take a moment to
4 look at it and let me know.

5 A. Okay.

6 Q. Have you seen this document before?

7 A. Yes, ma'am, I have.

8 Q. And what is it?

9 A. This is an e-mail with an attachment. The
10 attachment shows, as near as I can determine, the
11 counties in Texas which don't have driver license
12 offices resident in them.

13 Q. Okay. So in the e-mail that begins the chain,
14 which is found at --

15 A. Yes.

16 Q. -- TEX-0511236, could you read the last
17 sentence in that e-mail for the record?

18 A. The last sentence?

19 Q. Uh-huh.

20 A. "I have highlighted the counties in which
21 there is a temporary DPS office set up already in the
22 county with contact information, if available, for that
23 office." Can I read that again?

24 Q. Sure.

25 A. "I have highlighted the counties in which

1 there is a temporary DPS office set up already in the
2 county with contact information, if available, for that
3 office."

4 Q. Okay. So I just wanted to talk about the
5 temporary DPS office that was already set up. Can you
6 tell me what those offices would have been or are?

7 A. I don't know. Jennifer Templeton is a
8 Secretary of State employee. I don't know where she
9 got that information.

10 Q. So, to your knowledge, were there any
11 temporary DPS offices set up in any counties as of the
12 date of the e-mail?

13 A. No. This appears to be a list of the
14 counties -- the 80 counties where we don't have offices
15 I don't know. Why she would have referred to them as
16 temporary.

17 Q. So, unfortunately, this attachment isn't
18 printed in color, but I can represent to you that if it
19 were, the three counties that would have been
20 highlighted are Motley, Armstrong, and Sutton.

21 A. Hang on a second.

22 Q. If that refreshes your recollection.

23 A. In order to answer your question, I need to
24 refer to another document.

25 Q. I'm fine with that if that's --

1 A. Which counties did you say?

2 Q. So in Ms. Templeton's attachment --

3 A. Yes.

4 Q. -- from September 25th --

5 A. Yes.

6 Q. -- Motley, Armstrong, and --

7 A. Hold that thought.

8 Q. Sure.

9 A. Motley, Armstrong --

10 Q. And Sutton.

11 A. Sutton. I can't find Sutton county, okay. I
12 can't find Sutton county. I can tell you that
13 Armstrong County and Motley County are counties in
14 which we don't have a driver license office, and I can
15 tell you that because this chart that I have here in
16 blue depicts the counties where we sent mobile units.

17 Q. Okay.

18 A. And we sent mobile units to counties that did
19 not have driver license offices. And if I could ever
20 find Sutton, I can tell you -- give you the answer on
21 that one.

22 Q. Well, I can tell you that I'm trying to
23 understand something specific.

24 A. Sure.

25 Q. Do you -- strike that.

1 What are the temporary DPS offices --

2 A. I don't know what --

3 Q. -- that would have been set up?

4 A. I don't know what she's talking about.

5 Q. To your knowledge, were there any temporary
6 offices set up in September?

7 A. Temporary, no. I don't --

8 Q. Were there --

9 A. I'm telling you, I don't know what this woman
10 wrote. I don't understand why she used that term.

11 Q. Okay.

12 A. I'm sorry, I don't understand what she wrote.

13 Q. That's quite all right. Do you see that you
14 received the e-mails on the first page?

15 A. Sure.

16 Q. September 26th at 2:30 p.m., and then it looks
17 as if you forwarded it the next morning. Why did you
18 forward this e-mail?

19 A. Bob Meyers and Lynn Hale, they're part of our
20 training team. And so I forwarded it to them so they
21 could plan where they might need to go because,
22 potentially, they might need to cover all these
23 counties to train the employees there.

24 Q. Okay. And as you stated just a minute ago,
25 the list shows the 79 counties without driver's license

1 offices, and Ms. Templeton's e-mail states that 55
2 counties are interested.

3 A. It does, yes.

4 Q. What happened next with those 55 interested
5 counties?

6 A. Well, somebody in DPS would reach out to them
7 and offer them training. They would offer to train the
8 counties on how to issue EICs. And -- and then the
9 counties would go to a point that we designated, they
10 would receive the training, they would take the
11 equipment back to their -- to their county, and they
12 were also provided with a blank memorandum of
13 understanding, which they could provide to their county
14 commissioners to vote on. And then, depending on the
15 county, did their business, the judge would sign, and
16 they would forward it to us.

17 Q. And of those 55 counties, do you know how many
18 ultimately ended up signing the memorandum?

19 A. Yes. As of the 5th of May, 55 counties.

20 Q. And what happened in September with the 24
21 counties that Ms. Templeton indicated are outstanding
22 with a response?

23 A. Okay. They hadn't answered us back. I mean,
24 we would have contacted them again.

25 Q. Okay. And would it have been Mr. Meyers or

1 Ms. Hale who would have contacted them or you or
2 someone else?

3 A. No. When did you say again, by September?

4 Q. Well, as of -- right after this e-mail
5 presumably, so late September or sometime thereafter.

6 A. I believe it was -- it was Mr. Krueger who
7 contacted the counties because -- because the -- it was
8 getting so ponderous that Krueger was the one that was
9 the point of contact for -- for counties to return
10 their MOUs.

11 Q. And you said, when you referred to the
12 document that you were holding, that 55 of these
13 counties as of May --

14 A. The 5th of May, yes.

15 Q. -- as of the 5th of May had signed a
16 memorandum of understanding and had EIC capabilities.
17 Do you know how many that number was by the time of the
18 November 2013 election?

19 A. Give me a second. No, I don't remember.

20 Q. And do you know what the number would have
21 been as of the March primaries just a couple of months
22 ago?

23 A. No. I would have to go back and -- I can't
24 tell you. I don't know what they were.

25 Q. Okay. Are all forms of DPS issued

1 identification available at any driver's license
2 office?

3 A. No.

4 Q. Can you explain which forms might not be?

5 A. Employee ID cards.

6 Q. For DPS employees?

7 A. That's correct.

8 Q. Okay. So I mean, just to clarify, the types
9 of DPS issued ID that the public can apply for. Are
10 all of those forms available at any driver's license
11 office?

12 A. I understand those forms to be driver
13 licenses, Texas personal identification cards, and
14 election certificates, and those are available for
15 issue at all of our driver license offices.

16 Q. And what about concealed handgun licenses?

17 A. The concealed handgun program, as I've said
18 before, is operated through headquarters. It's
19 operated through -- I don't know how you would
20 categorize it. A division, I guess. Well, a
21 division -- by the Regulatory Services Division. It's
22 not done in person face-to-face.

23 Q. Okay. And with respect to driver's licenses
24 specifically, can you -- strike that.

25 With respect to driver's licenses, can a

1 person applying for one go through all the steps
2 required to ultimately get one at any driver's license
3 office?

4 A. Yes.

5 Q. So there aren't any offices where you would
6 apply for a driver's license, but you couldn't take the
7 test, for example?

8 A. Which test?

9 Q. The test to get a driver's license, the
10 driving test.

11 A. The drive test, there may be an office which
12 is not offering what we categorize as the skills test,
13 the drive test. None of them come to mind. I'm under
14 the impression, to the best of my knowledge, all of the
15 offices offer drive tests. There may be one or two
16 that don't, but none of them come to mind and I don't
17 know why they wouldn't.

18 Q. All right. I would like to take just a quick
19 break, if that's okay.

20 A. Sure.

21 (Recess from 3:10 p.m. to 3:20 p.m.)

22 THE REPORTER: Back on the record.

23 Q. (BY MS. KORGAONKAR) So I just had,
24 Mr. Rodriguez, one more question about Exhibit 86.

25 A. Yes, ma'am.

1 Q. In the attachment, which is stamped 511237 --

2 A. Uh-huh, yes.

3 Q. -- through -- well, that's -- if you'll see
4 the comment -- on the comments column on the far
5 right --

6 A. Armstrong County.

7 Q. Right, and it continues through on the other
8 pages to other counties as well. So I just wanted to
9 ask, with Armstrong, for example, starting there, it
10 says, "Sergeant Ward, DPS," and then there's what
11 appears to be a phone number. And then it says,
12 "Located, Clarendon." I just wanted to confirm -- or
13 to ask your understanding of that. Does that seem to
14 indicate that there might be a DPS office in that
15 county, but, perhaps, not a driver's license office?

16 A. There may be. And just based on the little
17 bit of information that's provided in the box, it
18 appears that there's some commissioned -- commissioned
19 law enforcement officer is located in Clarendon County,
20 or Clarendon.

21 Q. And if you turn to the next page and look at
22 Sutton County, there's another note in the comments
23 column that says, "Sheriff's office building has DPS
24 office and courthouse has DPS office open Thursday" --
25 sorry -- "open every Thursday," and then what appears

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1 to be a phone number. Do you know what that note might
2 mean?

3 A. No more than you've read. I can't even find
4 Sutton county on the map. I don't know what they meant
5 because this document was produced by somebody in the
6 Secretary of State's office, so I don't know -- I don't
7 know what Jennifer Templeton was thinking when she
8 populated it.

9 Q. Okay.

10 (Exhibit No. 87 marked.)

11 Q. (BY MS. KORGAONKAR) I will now hand you
12 Exhibit 87. Exhibit 87 is marked TEX-0496271 through
13 6273.

14 A. I think I have two copies of that.

15 MS. KORGAONKAR: Off the record.

16 (Discussion off the record.)

17 THE REPORTER: Back on the record.

18 Q. (BY MS. KORGAONKAR) Okay. So we're on
19 Exhibit 87, I believe it is. I just wanted to turn
20 your attention to the first e-mail in the chain that is
21 dated September 9th, 2013.

22 A. At 5:59 p.m.?

23 Q. Exactly.

24 A. Yes.

25 Q. So before we get into the -- into the

1 substance of the e-mail, around this time of year, how
2 many EIC applications would DPS have been processing?

3 A. I don't know.

4 Q. Do you have a rough estimate?

5 A. No. I would -- I would have to refer to
6 something someplace. I don't know off the top of my
7 head.

8 Q. Okay. So in this e-mail, you write, "Folks,
9 the word has come down that we need to open offices in
10 the top 13 counties where the Secretary of State thinks
11 there are potential voters who do not possess ID." Is
12 that right?

13 A. That's what it says, yes, ma'am.

14 Q. So tell me what you meant when you said "the
15 word has come down"?

16 A. That's -- as I said before, that's the way I
17 speak. So when I say "the word has come down," it
18 means that I've been -- I don't know civilians would
19 say it. I've been asked to, I've been invited to -- to
20 do something. And, in this case, it was to open
21 offices in the top 13 counties where the Secretary of
22 State thinks there are potential voters who don't
23 possess IDs. It's just the way I talk.

24 Q. And when you said "come down," did that, to
25 you, imply that you had been required to do something

1 or invited to?

2 A. I understood that to mean that was a -- that
3 was a directive from my chain of command. You can put
4 whatever you want on it. They asked me to do it and I
5 did it.

6 Q. So it was a mandatory instruction. Is that
7 fair to say?

8 A. Yes.

9 Q. And was it the Secretary of State that gave
10 you -- that gave DPS this instruction?

11 A. I don't know who -- I don't know who gave the
12 Secretary of State the -- or who gave DPS the
13 instruction. What I wrote here is that the Secretary
14 of State thinks there are potential voters in those
15 counties.

16 Q. Right. But setting aside the second part of
17 the sentence, was the instruction that DPS received to
18 open offices in these 13 counties received from the
19 Secretary of State's office?

20 A. I received it from my chain of command.

21 Q. Do you know where DPS received it from?

22 A. No.

23 Q. Did DPS have any role in determining which
24 those counties were?

25 A. No.

1 Q. Now, dealing with the second part of the
2 sentence, you said, "The top 13 counties where the
3 Secretary of State thinks there are potential voters
4 who don't possess ID."

5 A. Uh-huh.

6 Q. Did you -- strike that.

7 As far as you know, based on what did the
8 Secretary of State's office think this?

9 A. Excuse me. Would you mind rephrasing that,
10 please?

11 Q. Sure. So you've stated the Secretary of State
12 thinks there are these 13 counties with voters who may
13 not possess ID.

14 A. Yes.

15 Q. Do you know what the Secretary of State's
16 assessment was based on?

17 A. No.

18 Q. Did DPS have any role in determining which
19 those 13 counties were?

20 A. I don't believe so.

21 Q. Did you ask anyone why these 13 counties?

22 A. No. I was told to do it in 13 counties and
23 that's what I did.

24 Q. So did DPS -- not you personally, but DPS --
25 inquire to the Secretary of State, "Why are these 13

1 counties the ones and how did you determine that they
2 would be the ones?"

3 A. I don't know what discussions went on between
4 DPS and the Secretary of State's office.

5 Q. Okay. And then in the last sentence in this
6 same e-mail, you wrote, "In the meantime, I need you to
7 start working on getting your folks energized."

8 Did you think that it would be a problem
9 to get folks excited about this or energized about it?

10 A. To ask somebody to come in on a Saturday. I
11 think that we would need to talk to our employees and
12 we would need to explain to them what needed to be
13 done. And that's -- but that's also a colloquialism
14 to -- if I ask you to get energized, we're going to go
15 to dinner, you need to get energized, get your stuff,
16 let's go.

17 Q. Right.

18 A. So in that respect, it's not that -- that the
19 individual may or may not be willing to go or not.
20 It's that when you -- it's a slang term, it's jargon.
21 And so when you want someone to be energized, it's
22 let's get them moving in that direction.

23 Q. Of course. But did you think that it might be
24 hard to get DPS employees energized about working on a
25 Saturday?

1 A. I didn't know. I mean, that's why I said, "I
2 need you to start working on getting your folks
3 energized." They're the people that are closer to the
4 employees than I am. And that's part of the give and
5 take that I have with my supervisors.

6 Q. Okay. Did you think there might be some
7 resistance from employees to the idea that they would
8 have to come in on a Saturday when they usually didn't?

9 A. Our employees are people. I don't like
10 working on Saturdays unless it's required to. I mean,
11 I do it. We can -- they'll do what we ask them to do.

12 Q. Of course, okay. So now I want to look at the
13 next e-mail in this same chain, the one --

14 A. Directly above it?

15 Q. I'm sorry?

16 A. Directly above it?

17 Q. That's right. The one that is time-stamped
18 6:24 p.m.

19 A. Uh-huh.

20 Q. Could you read the first sentence in this
21 e-mail?

22 A. Yes. It says, "Gentlemen, we have been asked
23 to open driver license offices in" -- pardon me -- "in
24 13 counties that the Secretary of State's office
25 believes have the highest number of Texans who require

1 election identification certificates (EICs)."

2 Q. Okay. So who asked that these license --
3 driver's license offices be opened?

4 A. It gets back to the -- your first question,
5 which is we have been asked -- I mean, I was asked by
6 my chain of command. It's part of -- I don't -- I
7 don't think I fully understand your question.

8 Q. Do you know whether the Secretary of State's
9 office asked DPS to do this?

10 A. I don't know.

11 Q. You don't know, okay. So in this e-mail, you
12 go on to state, "The bottom line is that these offices
13 will open part of the day Saturday to issue EICs only."

14 A. Hang on a second. Yes, I see that paragraph.

15 Q. Okay.

16 A. I'm sorry. I that sentence, yes.

17 Q. Okay, great. So I noticed that this e-mail
18 was sent on a Monday. September 9th was a Monday.

19 A. Okay.

20 Q. So I'll represent that to you.

21 A. Thank you.

22 Q. Was that short notice to be receiving and then
23 giving this instruction on a Monday for Saturday hours
24 that Saturday?

25 A. Well, if you -- if you consider the audience

1 to which the e-mail was being sent, not necessarily.

2 Q. What do you mean by that?

3 A. Well, the audience are the regional
4 commanders -- the DPS regional commanders. Remember, I
5 talked about DPS regions. So they have a commander who
6 is commissioned -- he is in charge of each of those
7 regions. So I was informing them that they -- that
8 those offices -- our driver licenses in those areas
9 would be open.

10 Q. So do you mean that for those people who were
11 the recipients of this e-mail hearing on Monday that
12 they had to get some of their offices open on Saturday
13 wouldn't have been short notice for them?

14 A. You have to understand how the DPS is
15 organized. So I've spoken about regional managers,
16 okay, and the regional managers are the driver license
17 representatives in the DPS region, okay. There's also
18 a regional commander, and that's a commissioned law
19 enforcement officer and he is -- he is the highest
20 ranking DPS person within that region and he exercises
21 command over the driver license offices, highway
22 patrol, the Rangers, CID. So he's the highest ranking
23 person in the region. So for me to correspond with a
24 regional commander to inform them that there are some
25 offices that may be open, what is that, five days in

1 advance, that may not be -- there is -- they just need
2 to be aware of it.

3 Q. Was this the first that they had learned of
4 these Saturdays?

5 A. As far as I know, yes.

6 Q. So do you not -- it's not a trick question.
7 I'm just trying to understand --

8 A. No, I understand. I don't think we
9 understand -- we're talking past each other.

10 Q. Okay. I'll try to be more clear.

11 A. Okay.

12 Q. So telling them on a Monday that they have to
13 mobilize certain offices to stay open on Saturday,
14 would you consider that short notice considering that
15 they did not know before the 9th that would need to be
16 open on the 14th?

17 A. No, because they are responsible for other
18 functions, okay. The people who are responsible to
19 ensure the offices are open are the regional managers,
20 not the regional commanders.

21 Q. But were the commanders deputized to then pass
22 this information along to the managers?

23 A. No.

24 Q. So how did the managers receive the
25 information?

1 A. Well, they would have either received it
2 either in an e-mail, which you may or may not have --
3 you should have, if I sent one -- or it would be during
4 our 8:00 conference calls.

5 Q. And what day of the week are the 8:00 calls?

6 A. When we're in an EIC cycle, as we are now,
7 it's every -- every workday.

8 Q. And would you have been in an EIC cycle on the
9 9th of September?

10 A. I -- to the best of my knowledge, I was, yes.

11 Q. And did the regional managers receive notice
12 prior to this date --

13 A. I --

14 Q. -- of the Saturday openings?

15 A. I -- I don't know for sure. They should have.
16 It's -- it's the way that I would -- I would ordinarily
17 do business.

18 Q. So is it common for the for the managers to
19 learn of something like this before the commanders
20 would have?

21 A. In some instances. It would depend on what it
22 is. I mean the regional commander, as I stated, has a
23 number of other functions. Okay. So they're -- it's
24 hard to describe what they do to someone who doesn't
25 work in driver license or DPS, so bear with me.

1 So the regional managers in driver
2 license, they're the ones that ensure that the offices
3 are open. So they're the ones that have to -- to get
4 the resources available to open those offices. The
5 regional commanders should be informed because it's an
6 occurrence within their area of responsibility, which
7 is their region; and -- and they're responsible for
8 everything that happens within that region. So this
9 was a -- it just -- it was merely a notification. But
10 there was not much they had to do in order to -- in
11 order for the offices to be open. They needed to be
12 aware of it and perhaps a couple other things to let
13 the communications people know or the highway patrol
14 know that there would be offices and there may be
15 customers outside of driver license open, it's open on
16 a Saturday when it wasn't ordinarily.

17 Q. I want to then draw your attention to what
18 looks like a bullet point, although it's faint here.

19 A. Hold on a second. I need to get a drink of
20 water.

21 Q. Sure.

22 A. Okay. I'm with you.

23 Q. On that first bullet point, you state, "I
24 realize that this creates a real issue for you."

25 A. Yes.

1 Q. What was the issue that you believed it
2 created --

3 A. Well --

4 Q. -- for the commanders?

5 A. So I believed that the issue that it would
6 create for those regional commanders was that there
7 would be offices, which -- which are not open
8 ordinarily that would be open on whatever day I
9 specified in there; and that may be a resource issue
10 for them.

11 Q. Okay. And then in the final sentence of the
12 first paragraph, could you read that starting, "We were
13 told"?

14 A. Okay. "We were told to expect that this
15 effort would continue until the elections in November,
16 but my personal thought is that we don't get" -- that
17 was a misspelled -- "that we don't get any demand if --
18 if we don't get any demand for EICs, we can make a case
19 to stop opening these offices."

20 Q. So who told you to expect that the effort
21 would only continue through November elections?

22 A. Well, here's my personal thought.

23 Q. When you say, "We were told to expect"?

24 A. Oh.

25 Q. Someone told you that?

1 A. It was my chain of command. I'm sorry. It
2 would be Paul Watkins or perhaps AD Peters. I don't
3 know exactly who said this.

4 Q. Okay. And do you know whether they're the
5 ones who made that decision?

6 A. The decision to open on Saturdays?

7 Q. Yes -- I'm sorry. The decision to stay open
8 through November elections on Saturdays.

9 A. That was a discussion between -- between AD
10 Peters and Paul and Steve Bell and myself.

11 Q. Okay. And was anyone from outside of DPS
12 involved in that decision?

13 A. I don't recall. No, I don't recall.

14 Q. And then the second part of the sentence about
15 your personal thought.

16 A. Yes.

17 Q. Tell me what you meant by that clause.

18 A. It's merely that that's what my thought was
19 and that we were asking people to come in on Saturdays
20 and that if we didn't get any demand, if there wasn't a
21 group of people that came in -- because at that point
22 this appears to be relatively early in our EICs
23 efforts, and we weren't sure how many people would show
24 up. And -- and if a -- if a lot -- a lot of a
25 customers showed up in the offices to receive their

1 EICs, obviously we would stay open. If a lot of -- a
2 lot of customers didn't show up, then we may be able to
3 go back and say -- you know, we're asking employees to
4 come in on Saturday. It cuts into their quality of
5 life and their family time, and we could make a case
6 that, you know, it might not be worth burning out our
7 employees -- that's my term -- to issue a small number
8 of EICs or potentially none.

9 Q. Did you anticipate that there wouldn't be that
10 many people?

11 A. I didn't know what to anticipate.

12 Q. And what ended up happening, were there any
13 people for those first Saturday -- for that first
14 Saturday?

15 A. The offices that I visit indicated on that
16 first Saturday, I was the only person to walk in.
17 Those were a couple of small offices.

18 Q. Which -- which area?

19 A. Killeen. I live in Gatesville. It was easy
20 for me to drive to Killeen.

21 Q. Do you know about the other offices in
22 general?

23 A. I don't believe we had -- we don't -- had many
24 customers; but in order to answer that question, I
25 would have to go and look and see where our --

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1 Q. Okay. But just your recollection.

2 A. My recollection was that we had very few
3 customers.

4 Q. Okay. And "very few," could you quantify very
5 few or --

6 A. I'd say -- as near as I can determine, I
7 believe the number was less than ten.

8 Q. Less than ten for that date or for that series
9 of Saturdays?

10 A. Well, for the first Saturday is the question
11 that I was answering for you.

12 Q. Okay.

13 A. If you want any more information, I have to go
14 back and look at the charts that we have to get you a
15 precise answer.

16 Q. To just the best of your recollection, did the
17 numbers grow after that first Saturday or stay about
18 the same?

19 A. Saturday service stayed roughly the same.

20 Q. Roughly the same. Okay.

21 (Exhibit 88 marked.)

22 Q. (BY MS. KORGAONKAR) Okay. I'm handing you
23 Exhibit 88. Just let me know when you're ready.

24 A. Okay.

25 Q. I just wanted to turn your attention to the

1 first e-mail in this chain, and that's the e-mail at
2 9:28 a.m. on the page Bates marked TEX-0511360.

3 A. Yes, I see it.

4 Q. Is this a complete list here, this chart below
5 of the regions within your area that were open on those
6 Saturdays?

7 A. No.

8 Q. Do you know if such a list is available, a
9 complete list?

10 A. I don't know. I -- these aren't my regions.

11 Q. So one 1A, 1B, 2A, and 2B?

12 A. Those are Steve's.

13 Q. Okay. Those are -- okay. Do you know whether
14 this is a complete list of the Saturday open offices in
15 that time period for his regions?

16 A. I would have to compare that to other
17 documents. It appears to be -- it appears to be
18 complete with the exception of Townhurst. Townhurst
19 was undergoing remodelling.

20 Q. Okay.

21 A. I do not believe the office was open at this
22 point.

23 Q. And then flipping back to the previous
24 document. Yes.

25 A. So that's Exhibit 87?

1 Q. 87. That's right.

2 A. Okay.

3 Q. Do you see the chart under the top e-mail, the
4 6:26 p.m. e-mail that has your regions?

5 A. Wait a second. I have a 6/24 e-mail.

6 Q. Yes. Sorry. I misspoke. That's what I
7 meant. That chart there under the 6/24 e-mail.

8 A. Yes.

9 Q. Does that represent a complete list of the
10 offices in your regions that were open for those
11 Saturday hours?

12 A. It appears to. Again, I would have to go back
13 and check with other documentation; but as near as I
14 can determine, it appears to be a complete list, yes.

15 Q. And I noticed that it doesn't look as though
16 there's anywhere open in Region 5.

17 A. That's correct.

18 Q. Do you know whether -- so were there no
19 offices, to your recollection, open in that region for
20 this time period on Saturday?

21 A. No.

22 Q. Why is that?

23 A. Because the population density in Region 5
24 does not warrant opening offices on Saturdays for EIC
25 purposes.

1 Q. Does that mean there aren't enough people for
2 it to make business sense?

3 A. Aren't enough people?

4 Q. There's not enough of a population for it to
5 make business sense open an office on a Saturday for
6 EICs in that region?

7 A. There are not enough potential customers in
8 Region 5 to warrant opening an office on Saturday.

9 Q. What is a sufficient number of potential
10 customers?

11 A. I don't recall that number. I would have to
12 go back and check other documents. I don't recall
13 right now. I just remember that Region 5, because of
14 the low density of population, didn't open offices on
15 Saturdays.

16 Q. Okay. And do you recall whose determination
17 it was to not have a Region 5 office open?

18 A. It was -- since the determination was based on
19 population, then it was -- I don't know. I -- I can't
20 remember who made the determination. I can't remember
21 if I recommended it or -- or -- I'm sure ultimately
22 within driver license it was Joe Peters, but I cannot
23 recall the discussion that led up to that decision.

24 Q. Ultimately, would you have had to sign off on
25 that since it's your region?

1 A. Well, I report to -- I report to my chain of
2 command.

3 Q. Okay.

4 A. It would have been a recommendation that I
5 would have made.

6 Q. Okay. And would it have been signed off on by
7 Mr. Peters?

8 A. We don't sign off on these thing like you sign
9 a ticket. It would have been a verbal discussion
10 between Mr. Peters and myself or myself and Mr. Watkins
11 or some combination thereof. We would have been told
12 to do it or not to do it.

13 Q. So you would have reached an agreement among
14 the three of you?

15 A. Yes.

16 Q. Or you and one of those two people, at least?

17 A. Yes. Yes.

18 MS. KORGAONKAR: Next exhibit is 89.

19 (Exhibit No. 89 marked.)

20 THE WITNESS: Thank you very much.
21 That's when my son was born.

22 Q. (BY MS. KORGAONKAR) Okay. So this exhibit is
23 Bates stamped TEX-00304974. And it is a press release
24 issued by the Secretary of State on September 13th,
25 2013, is that right?

1 A. Yes, that's what it says.

2 Q. And the title is, "Secretary of State's
3 commends DPS for opening offices on Saturdays to issue
4 election IDs."

5 A. Yes.

6 Q. So I just have a couple of questions about
7 this. You'll see that in the first sentence, the press
8 release states that nearly 50 driver's license offices
9 are offering Saturday hours in order to issue EICs.

10 Is that right?

11 A. It says "more election certificates," but yes.

12 Q. Okay. Sorry. It says, "more election
13 certificates."

14 Do you know what the number actually was
15 of offices?

16 A. As of the 13th of September, no. I'm sorry.
17 Election certificates?

18 Q. No. Offices.

19 A. I believe the number was 49 offices were open.

20 Q. Okay. Okay. Do you know the process for
21 selecting those 49 offices?

22 A. The Secretary of State provided some
23 information to DPS; and based on that information, I
24 was directed to have the offices open.

25 Q. What was the information that was provided?

1 A. If I recall correctly, there was a -- an Excel
2 spreadsheet that had -- it had the number -- it was a
3 potential -- as it was explained to me, it was the --
4 it was the number of potential Texans who might not
5 have -- or might require an election certificate.

6 Q. Was it a number in a certain geographic
7 region? Just to the best of your recollection.

8 A. Yeah. To the best of my recollection, it was
9 a county list; and that was one column. And then there
10 were numbers in another column. I can't remember much
11 else other than that.

12 Q. And did the Secretary of State's office
13 generate that list?

14 A. When I saw it, I was given that by my chain of
15 command; so I don't know who generated it. I know that
16 my chain of command gave it to me.

17 Q. And gave it to you stating that it was a
18 document from the Secretary of State's office, right?

19 A. Yes.

20 Q. Okay. Do you know what those numbers were
21 based on?

22 A. Not more than what I've already told you is
23 that it was -- it was the number -- the -- it was an
24 estimate of the number of individual Texans in those
25 counties who -- there was -- who they thought might

1 need an election certificate.

2 Q. And do you know based on what they thought
3 people in those counties might need an EIC?

4 A. Say that again, please.

5 Q. Do you know what the basis was for the
6 Secretary of State's belief that people in X or Y
7 county?

8 A. I'm under the impression it was a comparison
9 of databases.

10 Q. Did DPS, to your knowledge, work on that
11 comparison of databases at all?

12 A. I don't know if DPS worked on the comparison
13 of databases, no.

14 Q. Okay.

15 MS. KORGAONKAR: And do you know whether
16 that list has been provided to us?

17 MR. KEISTER: I have no idea.

18 Q. (BY MS. KORGAONKAR) So the 59 office -- or
19 the 50 offices -- or 49 --

20 A. 49.

21 Q. -- approximately, which regions of the state
22 were they concentrated in?

23 A. Concentrated or existed?

24 Q. Where were they?

25 A. DPS Regions 1A, 2 -- I'm sorry -- 1A, 1B, 2A,

1 2B, 3, 4, 6A, 6B.

2 Q. So every region except Region 5, it sounds
3 like?

4 A. That's correct, yes.

5 Q. Were there -- was there any particular part of
6 the state or region in which they were concentrated?

7 A. I -- I don't recall any. I mean, it was
8 centered around population centers. They were dealing
9 with people. So to the best of my recollection, it was
10 based around where the people were.

11 Q. Okay. That makes sense.

12 Were there more of them near -- near big
13 urban centers than in very, very rural areas?

14 A. More of them?

15 Q. More of these Saturday opened offices?

16 A. The offices that were open on Saturdays were
17 in the counties -- that was 'cause it was -- I did it
18 by county, and the counties were selected or based on
19 the population.

20 Q. Okay.

21 A. If that answers your question.

22 Q. It does.

23 A. Okay.

24 Q. Is it fair to say that DPS locations that were
25 in places with smaller populations were less likely to

1 have Saturday open hours?

2 A. I'm not sure if that's an accurate statement,
3 because we went on the -- we used the population by
4 county. So Bell County would have -- and had offices
5 that were open, you know; so parts of Bell County are
6 rural. So when we broke it out, we broke it out by
7 county. It wasn't -- it wasn't -- it was all the
8 offices within a given county that were open.

9 Q. Okay. So some counties had more than one
10 office open for Saturday hours in this time period?

11 A. Potentially, yes.

12 Q. All right. So it looks to me from the past
13 few documents that we've received that on Monday of
14 that week you let the commanders know that Saturday
15 hours were going into effect. And then on Monday and
16 Tuesday, it sounds like you were working on figuring
17 out which offices would actually be open. On Friday
18 this press release goes out; and on Saturday, that's
19 the first open Saturday hours.

20 Does that sound about right from your
21 recollection for that week?

22 A. In order for me to answer specifically, I
23 would want to see all the chain; but it sounds -- it
24 sounds -- generally speaking, if what you've described
25 is accurate, then generally speaking, yes.

1 Q. And that information is just based on the last
2 few e-mails that we have discussed today.

3 A. We've looked at a lot of e-mails today.

4 Q. I understand that.

5 So was that a busy week for you at DPS?

6 A. I don't know. I suppose.

7 Q. Do you think it would be fair to say it was a
8 busier week than usual, given that you had a big,
9 different event occurring on Saturday?

10 A. I leave the office at 7 o'clock every night
11 anyway, so no. Sometimes I leave at 6:30 because I
12 want to give myself a break.

13 Q. Okay. Understood. Was -- were people rushing
14 to accommodate those Saturday hours for that first
15 week, at least? It seems like it would be a busy week.

16 A. I don't -- I don't -- I don't recall it as
17 being rushing. I was -- I was actually very pleased
18 with our employees. They did what we wanted them to
19 do, and they did it in a darn good way. And I was -- I
20 was very satisfied with how they were doing it. And so
21 I didn't perceive it as a busy week, necessarily.

22 Q. Were there any offices that you-all had
23 discussed or maybe wanted to have open for that first
24 set of Saturday hours that ultimately it didn't work
25 out in?

1 A. Only in the office that I've mentioned to you,
2 Townhurst, because it was undergoing renovations.

3 Q. But aside from Townhurst, everywhere else that
4 you and your colleagues discussed wanted to have open
5 and everywhere else that the Secretary of State
6 requested be open ended up being open on that Saturday?

7 A. To the best of the my knowledge, yes.

8 Q. Okay.

9
10 MS. KORGAONKAR: Can we go off the record
11 for one second?

12 THE REPORTER: Off the record.

13 (Discussion off the record.)

14 THE REPORTER: Back on the record.

15 (Exhibit No. 90 marked.)

16 Q. (BY MS. KORGAONKAR) I will hand you
17 Exhibit 90, which is Bates marked TEX-00462137 through
18 2139. If you could just take a moment, and let me know
19 when you're ready.

20 A. Okay.

21 Q. Have you seen this document before?

22 A. I don't recall seeing this document.

23 Q. So I wanted to draw your attention to the very
24 first e-mail, which is at the bottom of the chain. It
25 is from Janie Ramon to Keith Ingram with John Steen

1 copied --

2 A. Okay.

3 Q. -- from October 7th, 2013, at 10:18 a.m. So
4 in this, Ms. Ramon states to Mr. Ingram and Secretary
5 Steen, "Would like to request your assistance." And
6 then she states that she understands that opening --
7 sorry -- strike that.

8 "I understand that this has to be
9 approved by SOS. We're currently trying to get some
10 Saturday openings of the local DPS office for election
11 certificates"; is that right?

12 A. That's what it says.

13 Q. Okay. In the e-mail, when Mr. Ingram responds
14 to her that's just above it.

15 A. Hold on a second.

16 Q. -- at --

17 A. Give me a second.

18 Q. Sure.

19 A. Okay. I'm with you.

20 Q. Okay. So this is the 11:03 a.m. e-mail in the
21 chain from Mr. Ingram in response to Ms. Ramon?

22 A. I see that.

23 Q. He states, "Thank you for letting us know of
24 your request to DPS. We don't have any ability to
25 request Saturday openings in Val Verde County, but we

1 are scheduled to bring mobile EICs units to your county
2 on October 31st to November 1st."

3 Is that right?

4 A. Happy Halloween, yes.

5 Q. Okay. So starting with Ms. Ramon's e-mail,
6 she indicates that the Secretary of State's office
7 needs to approve requests for DPS offices.

8 A. Okay.

9 Q. To be open on certain dates.

10 Is that how you understand it as well?

11 A. I was informed --

12 MR. KEISTER: Object to speculation.

13 Q. (BY MS. KORGAONKAR) I'm asking how you
14 understand it, not what she necessarily meant.

15 MR. KEISTER: I'll object. It's
16 speculation. He's not -- he's not a participant, so --

17 Q. (BY MS. KORGAONKAR) Right. But you don't
18 have to speculate when it comes to what you take this
19 to mean. That's all I'll asking you.

20 How do you understand this?

21 A. Okay. Give me a second.

22 Q. Sure.

23 A. I understand that this has to be approved by
24 SOS, yeah. Yes.

25 Q. So do -- did you understand her request also

1 to have had to be approved by the Secretary of State?

2 A. Well, I wasn't e-mailed the request. But what
3 you've handed me, it looks -- it appears that they have
4 to ask the Secretary of State. This a county clerk in
5 Val Verde.

6 Q. Right. I understand that.

7 So my question is, do you also think that
8 that is the correct process that she would have had to
9 go through?

10 MR. KEISTER: Objection, calls for
11 speculation.

12 THE WITNESS: I believe there would have
13 to be some -- the counties that we -- this is for
14 Saturday openings?

15 They would have to have some discussion
16 with the Secretary of State's office.

17 Q. (BY MS. KORGAONKAR) Okay.

18 A. Yeah.

19 Q. Would you have also -- "you" being DPS --
20 needed to approve such a thing, or would it only have
21 been the Secretary of State's office?

22 A. Well, the selection of Saturday offices was
23 based on other -- other criteria than requests.

24 Q. But elective Saturday hours for a county that
25 may not have been selected. If the county voluntarily

1 wanted to open on Saturday hours that wasn't already
2 within the counties specified by the Secretary of
3 State's office, did they need to get approval from DPS
4 from you?

5 A. Assuming they had an office in the county,
6 then they would have to -- it wouldn't so much be -- I
7 suppose you could categorize it as approval but the
8 employees worked for us and we would have to authorize
9 them to go into the office. So if that's how you
10 categorize approval, then the answer to your question
11 is yes.

12 Q. Okay. And then turning to Mr. Ingram's
13 response, as I read before, he stated, "We don't have
14 any ability to request Saturday openings in Val Verde
15 County."

16 A. Okay.

17 Q. Is that accurate, as you understand it?

18 A. Well, they can request it.

19 Q. Did they have the ability to require DPS to
20 open certain offices for Saturday hours?

21 A. Does the Secretary of State have the ability
22 to require DPS to open an office on a Saturday? Not to
23 my knowledge.

24 Q. But didn't the previous e-mails establish that
25 there were certain offices that the Secretary of

1 State's office requested DPS to open on Saturday?

2 A. Yes.

3 Q. So to me that sounds in consistent. Maybe I'm
4 just not understanding.

5 A. I think you don't understand.

6 Q. Okay.

7 A. It's because the offices that were selected
8 for Saturday were based on the population of those
9 counties.

10 Q. But the Secretary of State's office selected
11 them?

12 A. Based on the population of those counties.

13 Q. So could the Secretary of State's office have
14 selected different counties based on something else, if
15 it had chosen to?

16 A. I suppose they could have.

17 Q. Based on something else that even made sense,
18 let's say?

19 A. I would say that having an office open on
20 extended hours near the bulk of the population
21 certainly makes sense to me.

22 Q. Right. But there's a number of other things
23 that could have made sense. So I'm saying, you
24 agree -- or tell me if you disagree that the Secretary
25 of State's office could have instructed DPS to open 13

1 different county offices if under some other criteria
2 those offices would have made sense to open, right?

3 A. I suppose so.

4 Q. So then is it correct that the Secretary of
5 State's office doesn't have the ability to request
6 Saturday openings in Val Verde County?

7 A. They can request them.

8 Q. Okay. And did the Secretary of State's office
9 request certain other county offices to be open on
10 Saturdays?

11 A. Not to my knowledge.

12 Q. The 13 counties from the previous --

13 A. Oh, yeah. Those ones, yes.

14 May I -- so let's be clear. The
15 Secretary of State asked for driver licenses to be
16 opened in certain counties, not county offices.

17 Q. Okay.

18 A. Okay.

19 Q. Okay. And just looking through the rest of
20 the exchange, which goes over to the first page, it
21 doesn't appear to me in this chain that there are any
22 DPS people on this e-mail; is that right?

23 A. I believe that to be correct, yes.

24 Q. Did this e-mail, to your knowledge, ever get
25 forwarded to DPS?

1 A. I don't know.

2 MS. KORGAONKAR: The next document,
3 Exhibit 91. Yes.

4 (Exhibit No. 91 marked.)

5 Q. (BY MS. KORGAONKAR) I'm handing you
6 Exhibit 91, which is not Bates marked. Just take a
7 minute to look at it.

8 A. Okay.

9 Q. So this is a printout from earlier this week
10 from the DPS website. It's a document that states the
11 listed driver license offices will be opening the
12 following Saturdays; May 10th, 17th, and 24th.

13 A. Yes, that's correct.

14 Q. Can you tell me when or approximately when
15 this list would have been posted on your website?

16 A. No. It would have been posted some -- because
17 we started our -- sometime after the 28th of April is
18 all I can tell you.

19 Q. Okay. And why the 28th of April?

20 A. That's the date when we started to have our
21 daily EIC conference calls.

22 Q. Okay. And to your knowledge, is this list
23 complete as of today?

24 A. Yes.

25 Q. And was the -- well, strike that.

1 What was the process of establishing
2 Saturday hours for these offices this May?

3 A. The process we -- the process we used to open
4 these offices was that these were the offices that we
5 had opened on Saturdays previously.

6 Q. "Previously" meaning what?

7 A. Previous election cycles.

8 Q. In the fall of 2013?

9 A. With the exception of Townhurst. And I
10 believe there's an office in Dallas, which is opened.
11 I can't -- I can't remember if it's Dallas East or
12 Dallas Southwest, but there's an office that we've
13 opened since the 2013 to now. And because it's in
14 Dallas County, it's open.

15 Q. Okay. Like a brand-new office?

16 A. Yes.

17 Q. Okay. So because this is based on the offices
18 that were open in the fall 2013 cycle, that means that
19 ultimately this is based on that same set of data from
20 the Secretary of State's office; is that right?

21 A. That's correct.

22 Q. Okay. Besides the period of time in the fall
23 of 2011 preceding the November 2013 elections, and
24 besides the period of time right now, this May, when
25 there's Saturday hours, have there been any other

1 Saturday hours for people to get EICs?

2 A. Outside of an election cycle?

3 Q. I guess both outside of an election cycle; and
4 also, are those are those the only two election cycles
5 when Saturday hours were instituted?

6 A. To the best of my recollection, we've had a
7 constitutional election, we've had primaries, and we're
8 in the midst of a runoff. And if I'm not mistaken, to
9 the best of my recollection, we've had Saturday
10 operations during each one of those three election
11 cycles.

12 Q. All right. And have there been other Saturday
13 hours since last September, let say?

14 A. Outside of the times that I just described as
15 election cycles?

16 Q. Correct.

17 A. No.

18 Q. Okay. Do you know if this notice that we're
19 looking at now is distributed in all of these counties?

20 A. This notice? This notice is posted on our
21 website.

22 Q. And is there a different notice that goes to
23 the counties from DPS?

24 A. I don't know.

25 Q. Is it upon the local DPS offices to publicize

1 the Saturday hours?

2 A. That's media and communications. I don't
3 know. I don't know their -- I don't know how they do
4 business. It's not my business to know their business.

5 Q. Okay. All right.

6 MS. KORGAONKAR: All right. You want to
7 take a quick break?

8 THE REPORTER: Off the record.

9 (Recess from 4:15 p.m. to 4:27 p.m.)

10 THE REPORTER: Back on the record.

11 Q. (BY MS. KORGAONKAR) Okay. I'm going to shift
12 gears just a little now. I want to talk about the
13 mobile EICs units.

14 A. Okay.

15 Q. Could you just tell me what a mobile EIC unit
16 is?

17 A. Okay. We call a mobile EIC unit -- I had
18 described it before. I'll do it again. It's nothing
19 more than a term we use for a -- called collection
20 equipment. It's -- roughly speaking, it's a laptop.
21 There's a printer. There's cartridges, and then
22 there's the -- thank you -- the digital camera, the
23 tripod for the digital camera. There's the blue screen
24 that we have to use as a backdrop for when we take
25 applicant pictures. There are forms. There's blank

1 sheets of paper, and there -- it's containerized inside
2 of a tub. There's -- for the units that we -- that DPS
3 provides that -- for use of DPS employees, there's a
4 cell phone that's a DPS-provided cell phone. For the
5 county units, there's not a DPS-provided cell phone.
6 It's the major distinction between the county EIC,
7 mobile EICs units, and the DPS mobile EIC unit.

8 Q. Is there a car or a vehicle associated with
9 the mobile unit?

10 (Phone buzzing.)

11 THE WITNESS: It's our friend.

12 No.

13 Q. (BY MS. KORGAONKAR) So to get to wherever a
14 mobile station is set up, employees, whoever they are,
15 use their own cars generally?

16 A. I misunderstood your question. I understood
17 your question to be: Is a car associated with a
18 specific unit? In other words, is that part of the
19 unit set? And the answer to that question is no.

20 Q. Okay.

21 A. The Department of Public Safety, insofar as
22 the resources that we have available, provides fleet
23 vehicles for the employees to go and issue EICs.

24 Q. And are those fleet vehicles available any
25 type a DPS employee needs to make it to a mobile unit?

1 A. Within the -- within the resources that we
2 have available, yes.

3 Q. Okay. Is a mobile unit the same thing as a
4 mobile light unit?

5 A. Yes.

6 Q. They're the same?

7 A. Yes. The mobile light and -- you've heard the
8 term "pet peeve"?

9 Q. I have, indeed.

10 A. The making -- calling things names like mobile
11 light is one of my pet peeves, and -- but essentially,
12 the mobile light is a mobile unit, yes.

13 Q. Is there any difference between the two?

14 A. Someone put it on slide, and everybody refers
15 to it as that. Other than somebody thought it was a
16 great ideal to call them that, no.

17 Q. So there's never been a substantive
18 distinction or difference between these two things.
19 It's just what people call them.

20 A. That's right.

21 Q. Okay. When did DPS first learn of mobile
22 units for EICs?

23 A. I'm going need you to rephrase that question,
24 please.

25 Q. When did the idea of -- of issuing mobile

1 units first occur?

2 A. Issuing EICs through mobile units?

3 Q. Correct.

4 A. Okay. I don't remember exactly what day. It
5 was -- it was sometime during the constitutional
6 election cycle, and the -- the -- the initial
7 suggestion that was in the September, that fall, the
8 period of 2013, the initial suggestion was that we use
9 one of our six disaster response units to issue EICs.
10 And there are a variety of reasons that we didn't want
11 to do that. And we decided to -- to enter into an
12 agreement with the Secretary of State, and I don't
13 remember who paid for them. But -- but we constituted
14 25 sets of mobile units; and then later, on we
15 constituted approximately 80 sets of mobile units.

16 Q. Okay. And did the idea generate within DPS,
17 or did it generate from the Secretary of State's
18 office?

19 A. I don't know -- I don't know where the idea
20 generated from.

21 Q. Okay. And whose, to the best of your
22 recollection, idea was it to use one of those disaster
23 response units?

24 A. I don't recall.

25 Q. Who all was involved in the -- in the planning

1 in fall of 2013 to involve -- strike that -- the
2 planning in 2013 to create and then to dispatch mobile
3 EIC units? By "who," I mean which offices.

4 A. Well, the driver license division of DPS,
5 certainly, we were the executor of that. I cannot
6 recall if there was discussion between DPS and the
7 Secretary of State about mobile units. I just can't.
8 I don't recall.

9 Q. Do you recall whether the Governor's office
10 was involved?

11 A. I don't know about that.

12 Q. Do you recall whether the Lieutenant
13 Governor's office was involved?

14 A. I don't know about that either.

15 Q. What was the goal of the mobile EIC units?

16 A. The goal was to provide Texans, who lived in
17 those 80 -- or 79 counties that I talked about, the
18 opportunity to -- to get an EIC.

19 Q. What were some of the potential difficulties
20 discussed when you were planning this and implementing
21 the program?

22 A. Well, we had to -- we had to get the
23 resources. We had to get the money.

24 Q. Uh-huh.

25 A. And of course, there's a -- because we're a

1 government agency, there's a process it needs to go
2 through in order to get the money. We had to -- we had
3 to purchase the computers themselves, and we had to --
4 we had to ensure that the computers were able to do
5 what we wanted them to do. And so DPS IT has IT
6 security. I'm not an IT guy, but I know they have
7 certain security requirements. So those computers had
8 to meet those security requirements. They also had to
9 configure the application, the desktop application to
10 enable to -- or to make the screens that were displayed
11 for the CSRs to look as much like the screens that are
12 displayed in our brick-and-mortar offices as possible
13 so that -- so that we wouldn't have to train people to
14 do a completely different system and would be as
15 similar to what they had already done as possible.

16 So there was that -- the IT and the
17 IT-related issues of getting all that done under a
18 relatively short period of time. I believe it was ten
19 days or so. We had to -- we had to -- we received the
20 computers from the vendors. It was a lot of logistics.
21 We received the computers from the vendors. They had
22 to be imaged. They had to be -- the application had to
23 be loaded on the computer. The physical loading all
24 the applications takes time when you're dealing with 25
25 computers. You know, there's going be a problem. We

1 had a bench test. We had to make sure that all the
2 peripherals worked and everything like that. So there
3 was --

4 Q. Okay. And you mentioned that money was one
5 potential concern, but clearly the money came.

6 Do you know where it came from?

7 A. No. We were told to -- Steve Bell and I were
8 told to put it on our purchase cards, and that's what
9 we did.

10 Q. Okay. And is your purchase card a credit card
11 that you have for your employment at DPS?

12 A. It's -- yeah, it's a P card. I'm authorized
13 to use it under certain circumstances and within
14 certain spending limits. Steve did most of the buying
15 because he was -- as I said before, he was the person
16 who dealt with logistics. And so I was under -- I was
17 operations, and he was logistics.

18 Q. Do you know whether ultimately the amounts
19 that you-all paid for the equipment came out of DPS's
20 budget, or was DPS reimbursed by the Secretary of State
21 or any other agency?

22 A. I have no idea.

23 Q. And so you mentioned money and the difficult
24 IT work that needed to be done as two of the --

25 A. Well, there were -- there were a challenge

1 that needed to be done. We needed to receive the
2 equipment. We needed to configure the equipment and
3 the boxes that I talked about before.

4 Q. Right.

5 A. We had to physically bring the CSRs to Austin
6 and conduct a training class. And then we dispatched
7 them to their home regions with the equipment in hand
8 after they had -- after they had inventoried it and
9 made sure that it all ran.

10 Q. And was there ever any concern about which
11 would be the right places to receive equipment for
12 mobile EIC units?

13 A. I don't understand what you're asking me.

14 Q. Well, how were the places selected?

15 A. The -- the locations for EIC operations were
16 selected based on that they were the 80 counties in the
17 state that didn't have driver license offices.

18 Q. So what about the initial 25? Maybe I'm
19 getting different phases confused.

20 A. Okay. So it's very easy, to my mind anyway.
21 Nobody else seems to --

22 Okay. Phase 1 --

23 Q. Uh-huh.

24 A. -- Saturday opening.

25 Q. So Phase 1 has nothing to do with mobile EIC

1 units?

2 A. No, ma'am.

3 Q. Is at the Saturday openings that we discussed
4 earlier?

5 A. Yes.

6 Q. Okay.

7 A. Phase 2, 25 Secretary of State EIC mobile
8 units.

9 Q. Okay.

10 A. Phase 3 are the 80 county units -- about 80, I
11 think. I can't remember exactly how many of them there
12 were. So that allowed me to organize the operation
13 within my own mind.

14 Q. And for my clarification, the 80 county units
15 are still considered mobile units?

16 A. Well, yes, because -- because -- because of
17 the equipment that comprises the unit, yes.

18 Q. But the -- those 80 units, are they themselves
19 ambulatory; or are they set up in one spot and they
20 stay in that spot in the county?

21 A. You mean do they get up and walk around?

22 Q. Do they get moved around?

23 A. They can be moved to wherever the county
24 determines that they want to issue EICs. If the county
25 wants to move them, then the county can do that,

1 because the units -- because the set -- the equipment
2 set they've been given enables them to do that; and
3 we've had counties ask about that. The answer is, if
4 that's what you want to do, it's your equipment to use
5 for the time being.

6 Q. So to your knowledge, of those 80 Phase 3
7 units, do the counties generally set them up in one --
8 in one spot in a courthouse, for example, and keep it
9 there; or do the counties sometimes take them outside
10 of a Target?

11 A. Outside of a target.

12 Q. A Target or a grocery store or to --

13 A. Oh, you're talking about a store.

14 Q. Yes.

15 A. Sorry. I'll be honest with you, I don't know
16 what the counties do with them. I've never visited a
17 county to -- to see their EIC units. It's just -- I
18 couldn't speculate on that.

19 Q. Okay. And to your knowledge, for the 25, the
20 Phase 2 --

21 A. Uh-huh.

22 Q. -- are those ones set up outside of shops and
23 places like that where people can go?

24 A. So the -- the site selection for the Phase 2
25 units was given to us by the Secretary of State.

1 Q. Okay. And did you, DPS, have any role in the
2 site selection for those Phase 2 units?

3 A. I'm trying to answer your question. We could,
4 is the short answer. The Secretary of State would tell
5 us to go to a given location -- and I'll use an
6 example. 123 Main Street, Val Verde, Texas -- and we
7 would send employees to that location and they would
8 make sure that the people at that location knew that we
9 were coming, okay, and that they had the -- the
10 infrastructure quote, unquote that we needed. And the
11 infrastructure was a chair -- you know, chairs and a
12 table and a plug. And once they had done that, then
13 that site -- we would go to that site.

14 Q. Okay. And for the 25, is it right that those
15 were manned by Secretary of State employees plus a DPS
16 employee, maybe?

17 A. That's not an accurate statement, no.

18 Q. Okay. Who were they manned by?

19 A. So the 25 Phase 2 units have up, until this
20 election cycle that we're currently in --

21 I -- it's possible that the Secretary of
22 State units might have some employees at one of those
23 25 -- with one of those 25 units but not during the --
24 not during the fall elections. It was only after we
25 provided them with training. I just don't know.

1 Q. Okay. Is it correct that the 80 county units
2 are manned by county employees?

3 A. That's not correct.

4 Q. Okay. What is correct?

5 A. What is correct is that the 55 units that
6 we've sent to the counties who have signed the MOUs and
7 who have received training are being crewed by county
8 employees. The delta -- the difference between
9 whatever, 80 minus 55, is those are being maintained by
10 DPS. We have control of those units.

11 Q. Is the only difference between the 55 and the
12 remaining balance, that for the 55, those county
13 employees have been trained and have gone through that
14 and signed the MOU?

15 A. Yes.

16 Q. And for these three phases -- well, strike
17 that. We've covered the time period associated with
18 Phase 1.

19 But can you let me know what the time
20 period is associated with Phase 2? Are those ongoing?

21 A. When I refer to those phases, it was during
22 the fall election that ended in November. And the only
23 reason I did that is because we had a lot of moving
24 parts and because it allowed me to separate those
25 moving parts in my mind. When I was talking to people,

1 I would -- I would refer to things as Phase 1, Phase 2,
2 Phase 3, because that's been my experience. And it was
3 also how I wanted to get all of our employees on the
4 same sheet of music, so to speak, so they would
5 understand. That way we get away from the mobile light
6 colloquialism.

7 Q. Are the Phase 2 units still out there?

8 A. The Phase 2 units are currently still being
9 used, yes.

10 Q. Are they still in the same places where they
11 started?

12 A. I --

13 MR. KEISTER: Objection, vague.

14 THE WITNESS: I don't know. I mean,
15 they're in the field. Okay. They've -- Steve Bell
16 keeps track of which -- specifically which units are
17 where. So the broad answer is yes, they're still out
18 in the field; but I can't give you granularity on which
19 units and which office.

20 Q. And the Phase 3 units, when did those start
21 being operated, approximately?

22 A. I don't recall. I believe it was -- it was
23 associated with the same constitutional election. I
24 believe we had Phase 1, 2, and 3; and they were running
25 concurrently.

1 Q. Okay. Is it correct that Phase 3 units are
2 still operating now?

3 A. That's an accurate statement, yes.

4 Q. That was the clearest description of phases?

5 A. That's what --

6 Q. I appreciate that.

7 A. That's what I've been told.

8 Q. Thank you.

9 You've been -- you've been kicking that
10 one around for some time.

11 A. All it did is it -- because we had a lot of
12 things that were going on, it allowed me to
13 intellectually separate things that were happening so
14 that when I was talking to certain people about certain
15 things, I can say, "Well, that's a Phase 1 issue." Got
16 that. Because we would have different issues on
17 different phases. And then within the Army lexicon is
18 a that phases can run concurrently. They can overlap,
19 or they could be sequential. In this case, they all
20 overlapped; so that's --

21 Q. Thank you. We appreciate that.

22 A. Just to be clear, is that we're no longer
23 referring to any phases during our current election
24 cycle.

25 Q. Okay.

1 A. Okay.

2 Q. When did phases get phased out?

3 A. I'm sorry. We stopped referring to things in
4 phases at the November election, whenever that was. It
5 was, what, the 11th or the 12th, I believe. Once we
6 stopped that initial constitutional election, that was
7 the end of it because we didn't need to. We just
8 had -- all we had were EIC units that were in the
9 counties; and everything else we didn't need to
10 separate things in people's minds.

11 Q. Okay. I will hand you Exhibit 92.

12 (Exhibit No. 92 marked.)

13 THE WITNESS: Thank you very much.

14 Q. (BY MS. KORGAONKAR) This exhibit is Bates
15 marked TEX-0511208 to 209. And let me know when you've
16 had a minute to review.

17 A. Okay.

18 Q. So I wanted to turn your attention to the
19 initial e-mail in the chain, which is dated
20 September 24th, 2013, from 3:18 p.m.?

21 A. Yes.

22 Q. It's an e-mail from you.

23 A. Uh-huh.

24 Q. The subject is "Rumor control election
25 certificates," and it's been designated with an

1 importance level of high. In the first sentence you
2 write, "Managers, I'm trying to control some rumors.
3 There's a change in the way we will do EIC operations
4 that will impact your regions."

5 So I just wanted to know, first of all,
6 what the rumors are, as you recall them.

7 A. I'm sorry. I can't recall anything right now.

8 Q. Okay. And does reading the rest of the chain
9 maybe refresh your recollection?

10 A. Well, let's see. (Witness reading.)

11 Only that it must deal with something
12 with county units and these counties. Although I would
13 like to point out that previously I told you there were
14 78 counties. Okay? And this here says 79. In
15 reality, Kimball County had opened an office right
16 around this time period. So there was some minor
17 confusion whether Kimball was a county with a driver
18 license or not; and some people thought it was and
19 thought it wasn't. Kimball County has an office in
20 there. It's not counted as one of the 78.

21 Q. Understood. So with respect to the rumors?

22 A. All I can -- the only illumination I can give
23 you is that it must -- it must have had something to do
24 with -- with these mobile units.

25 Q. And your next sentence, "There's a change in

1 the way we'll do EIC operations that will impact your
2 regions."

3 A. Yes.

4 Q. What was that change?

5 A. The changes as loaded out -- as below. So
6 your facilitators and assistant manager will need to be
7 trained by ITS -- stands for Innovation and Tech
8 Solutions, people on the new EIC system for the new
9 computers. So all that -- all that deals with is that
10 we're going to get the 79 Phase 3, 78 Phase 3 county
11 units; and we're going to shift the responsibility for
12 training. We're going to have distributed training.

13 Q. What is "distributed training"?

14 A. Distributed training is that we're telling the
15 facilitator, who is an employee who is a resident in a
16 county -- or I'm sorry -- a DPS region that they're
17 responsible to train the county -- the county
18 employees. So we'll provide the training to the
19 facilitator, and the facilitator will provide the
20 training to the County. What that allows us to do is
21 to train much faster.

22 Q. And is it correct that previously everyone
23 getting trained would have been trained here in Austin?

24 A. It is, but only when you -- but in order to --
25 in order for that -- you have to understand that prior

1 to this the only people that we had trained were DPS
2 employees. So Phase 2, we had a new system. We
3 brought the people who were going to operate the
4 system, and we conduct the training in a central
5 location. Okay? This is Phase 3 now; and since there
6 are a large number of counties that will receive
7 training in a distributed manner, it made more sense
8 for us to go ahead and train the trainer.

9 Q. Okay. And what was the difference in the --
10 in the two computer systems, the old one versus the new
11 one, as of this date?

12 A. When I refer to the new computers, it's merely
13 that they're -- that they're computers that were
14 purchased. There should be -- and to the best of my
15 knowledge, the laptops that we purchased to send out
16 for Phase 2 and for Phase 3 were the same model of Dell
17 or whatever they were. So when I say -- when I refer
18 to "new computers," it's not a new computer system.
19 It's merely they we've purchase a new computer.

20 Q. Okay. I have another document.

21 (Exhibit No. 93 marked.)

22 Q. (BY MS. KORGAONKAR) So Exhibit 93 is Bates
23 stamped TEX-0511590 through 591.

24 A. Okay.

25 Q. Okay. Do you recognize this e-mail?

1 A. Yes.

2 Q. What is it?

3 A. Going from the bottom up, this is an e-mail
4 that my counterpart, Steve Bell, sent out; and he sent
5 it to the regional managers for regions 1 and 2. And
6 it just says that we're going to set up these 25 units.
7 And then later on in the e-mail, there's some other
8 information from a guy named -- DPS employee named Bob
9 Meyers. Bob Meyers is one of our training people, and
10 he provides the -- the -- some -- some specifics for
11 training, when we're going to do the training.

12 And then the very top is from Deborah
13 Pitzer. Deborah Pitzer is an assistant manager in
14 Region 1B, and she just provides the names of the
15 employees who are going to travel to Austin and receive
16 the training.

17 Q. And at this time period, with this --

18 A. September.

19 Q. -- the end of September --

20 A. Yes.

21 Q. -- do you know how many EICs were being
22 processed at that point?

23 A. I don't know.

24 Q. And I just wanted to ask you a question about
25 the first e-mail -- the first sentence, rather, in

1 Mr. Bell's initial e-mail.

2 A. Yes.

3 Q. He writes, "We are going to be required by the
4 Secretary of State's office to deploy up to 25 mobile
5 light EIC units."

6 My question about this sentence is, he
7 has stated "required by the Secretary of State's
8 office." Is that how DPS understood the -- the chain
9 of command when it came to the 25 units in September?

10 A. You have to understand Steve Bell. Steve Bell
11 is a retired non-commissioned officer. He's got five
12 tours of combat. That's how Steve Bell talks and
13 writes. We all talk about things that are required.
14 So if I were to go home, I would be required to bring
15 things for my wife. That's just how we talk.

16 Q. But what did the Secretary of State, in fact,
17 require DPS to -- to work with the Secretary of State
18 on the 25 mobile units?

19 A. We did work with the Secretary of State and we
20 knew that we were going to have to provide some sort of
21 coverage in these counties. I think you're paying an
22 inordinate amount of attention to the word
23 "requirement," and I think that you and I have a
24 different view of what the word "required" means.

25 But we were -- it was -- that was what we

1 were told to do, so that's what we did. And we were
2 told by our chain of command. I don't know how Steve
3 wrote that. I wasn't a party to this e-mail except
4 that I received it am some point.

5 Q. Well, I'll put it differently.

6 A. Please.

7 Q. Did DPS have any discretion? Could DPS have
8 said, "We actually don't want to work on these 25
9 mobile units with you"?

10 A. Wow. I don't think DPS had that kind of
11 discretion.

12 Q. Okay.

13 A. That was -- that's we were asked to do, and
14 that's what we did.

15 Q. So to date, do you know how many EICs have
16 been applied for?

17 A. Yes.

18 Q. How many?

19 A. As of the 5th of May, 271.

20 Q. As of May 5th.

21 A. As of the 5th of May.

22 Q. Do you know how many have been issued?

23 A. 252, as of the 5th of May.

24 Q. And those are totals statewide?

25 A. That's correct.

1 Q. And that's -- those figures, 271 applications,
2 and 252 issued?

3 A. Yes.

4 Q. Is in the entirety of EIC's existence?

5 A. That's every EIC we ever issued.

6 Q. Okay.

7 A. 252 is every EIC we've issued.

8 Q. Okay. So earlier, I think when Ms. Maranzano
9 was wrapping up with you, she asked whether your --
10 whether you felt that the success of the EICs were
11 related to the number of those issued.

12 Do you remember?

13 A. I remember some discussion. I don't remember
14 exactly what the question was.

15 Q. So I -- my recollection is that the question
16 had generally been whether the success of the EIC
17 program was related to the number of EICs that had been
18 issued by the state.

19 A. Okay.

20 Q. And your testimony was basically that that was
21 not correct, that the success wouldn't be based on the
22 number of EICs issued.

23 A. The success of the program does not -- gauging
24 duck success as a metric for the program does not hinge
25 on the number of documents issued.

1 Q. So if, hypothetically, zero EICs had been
2 issued, could the program still have been successful?

3 A. Well, I suppose so. We provided a service.
4 We were asked to provide a service. We provided a
5 service across the State on Texas. We provided an
6 opportunity for Texans to come and -- come to an office
7 or come to a mobile site to -- to get a document that
8 they felt they required in order to vote.

9 Q. Okay. Do you have any sense of how many
10 people in Texas do not have any of the forms of ID
11 required by the voter ID law?

12 A. I have no sense of that.

13 (Exhibit No. 94 marked.)

14 Q. (BY MS. KORGAONKAR) Exhibit 94 is Bates
15 marked TEX-511199 through 5119200.

16 A. Okay.

17 Q. Do you recognize this document?

18 A. Hang on a second. Yes.

19 Q. And is it entitled "EIC meeting minutes,
20 9/25"?

21 A. Yes, it is.

22 Q. Sent on September 25th, 2013?

23 A. That's correct.

24 Q. I just wanted to direct your attention to the
25 two final bullet points under the heading "Status of

1 EIC initiative in progress."

2 A. I see them.

3 Q. The final bullet point, could you read that
4 aloud, the one that starts, "Voters without"?

5 A. "The voters without photo ID cast provisional
6 ballots. They'll have six days under law to return to
7 a DL office with photo ID to make their vote count."

8 Q. Is that your understanding of how provisional
9 ballots work?

10 A. Well, I'm not an election official. That's
11 how I understand it to work.

12 Q. Okay. And the previous bullet point, if you
13 could read that out loud.

14 A. Sure. Starts with the word "anticipate"?

15 Q. That's right.

16 A. "Anticipate keeping the equipment for a week
17 after the election because of provisional ballots."

18 Q. Can you help me understand what that -- what
19 that means?

20 A. Yes. So we, DPS, were under the impression --
21 and we wanted to be able to -- to provide the
22 opportunity for people to get their EIC during what's
23 called a cure period, which is a period that I
24 understand, as a layman, to be after the vote; but
25 there's a period of time when people who, for whatever

1 reason, they cast that provisional ballot, they may
2 come in and then they can prove -- they can show their
3 EIC. So we wanted to make sure that we extended our
4 operations to enable Texans to do that.

5 Q. Okay. Thank you.

6 And one other quick question. Under the
7 heading "Documentation."

8 A. Give me a second.

9 Q. Sure.

10 A. Yes.

11 Q. In the middle bullet, it reads, "Tiffany and
12 Andrea working to complete process for exceptions
13 path" -- or exception "paths," rather.

14 A. Yes.

15 Q. What are exception paths?

16 A. I have no clue. That's outside my area.

17 Q. Then on the next page, under "Considerations,"
18 the third bullet point.

19 A. Brian Lane?

20 Q. Exactly. If you could read that aloud.

21 A. Brian Lane is having discussions with SOS
22 office about security requirements for non-DPS people
23 gathering EIC data, parens, background checks, comma,
24 training, closed parens.

25 Q. Can you help me understand what that one

1 means?

2 A. Sure. Brian Lane, I think he's a deputy
3 assistant director. He's in IT, no matter what his
4 rank is. So what this appears to me that Brian Lane is
5 talking with -- about the security requirements to
6 allow DPS people to gather information.

7 Q. Okay.

8 A. And so because -- because we have people who
9 are who are not DPS employees who are interacting with
10 customers.

11 Q. Okay. So this is about background checks for
12 state employees who would be working on issuance of the
13 EICs?

14 A. That's correct, yeah. Yes.

15 MS. KORGAONKAR: Off the record for just
16 a minute.

17 (Exhibit No. 95 marked.)

18 Q. (BY MS. KORGAONKAR) I'm handing you Exhibit
19 95.

20 A. Yes, ma'am.

21 Q. The exhibit is marked TEX-0511902 through 905.
22 If you would take just a minute to review it.

23 A. Okay.

24 Q. In e-mail from Stephen Bell to a group of
25 people --

1 A. On the very top?

2 Q. The one at 4:50 p.m., the second one on the
3 first page.

4 Mr. Bell writes, "We are trying to rework
5 the hours from 8:00 to 5:00" --

6 A. Wait. Wait.

7 MR. KEISTER: Down here (indicating).
8 She said at the end of the paragraph.

9 THE WITNESS: Oh, I'm sorry. I was
10 looking at the top one because they both have 4:50 time
11 stamp.

12 Q. (BY MS. KORGAONKAR) I'm sorry.

13 A. It's okay. It's fine. We're good.

14 Q. Mr. Bell writes, "We are trying to rework the
15 hours from 8:00 to 5:00 to 9:00 to 4:00 for any future
16 deployments."

17 A. Yes.

18 Q. Why was he trying to rework the hours?

19 A. That takes into consideration the travel time
20 for the employee to get from wherever they draw the
21 equipment from to the site for EIC issuance. And then
22 at the conclusion of the day -- because as I mentioned
23 before, these are stand-alone units and they have no
24 other connectivity, all of the information is placed
25 onto USB drive and then the employee has to go back to

1 the office and transfer the information from the
2 computer hard drive onto the USB into driver license
3 systems. And so that what he's doing is this takes
4 into consideration the administrative time on either
5 end of the operation.

6 Q. Were those hours reworked as he's described
7 here?

8 A. To the best of my knowledge, yes. I believe
9 9:00 to 4:00 became standard.

10 Q. Okay.

11 (Exhibit No. 96 marked.)

12 Q. (BY MS. KORGAONKAR) Exhibit 96 is Bates
13 marked TEX-00462497 --

14 A. Yes.

15 Q. -- through 499.

16 A. Yes.

17 Q. If you could just take a moment.

18 A. Okay.

19 Q. And I wanted to direct your attention to the
20 e-mail on the page marked 462498, the second page.

21 A. Yes.

22 Q. In the middle at 10:24 a.m.

23 A. Wroe Jackson.

24 Q. Yes, from Wroe Jackson to you.

25 A. Okay.

1 Q. If you could read that e-mail.

2 A. "Thank you, Keith has already contacted them
3 to request the change in hours from 9:00 a.m. to
4 4:00 p.m. with one day available for off-business hours
5 as we discussed."

6 Q. So who made the request to change the hours
7 from 9:00 a.m. to 4:00 p.m.?

8 A. As near as I can determine, they did.

9 Q. Who is "they"?

10 A. I don't know.

11 Q. In the e-mail below that stems from you on
12 October 2nd at 10:20 a.m. --

13 A. Yes.

14 Q. -- can you read the second sentence?

15 A. "While the requested times are from 1100 to
16 1900," which is 7:00 p.m. -- "the Secretary of State or
17 sec state is working to see if we can change the
18 hours."

19 Q. Why was the Secretary of State working to see
20 if the hours could be changed?

21 A. Off the top of my head, I don't know. I could
22 speculate.

23 Q. Well, did the request to change the hours come
24 from DPS, based on these e-mails?

25 A. Possibly.

1 Q. Why did DPS ask that the hours be changed?

2 A. Why would we want the hours changed, if that's
3 what we asked for? Simply because 7 o'clock at night
4 is awfully late for us to keep employees working.

5 Q. I just want to point out in the e-mail that
6 you sent at 10:53 a.m., it starts on the first page and
7 ends on the second.

8 A. Yes.

9 Q. "Okay. Do we know which day yet? No
10 pressure. I'm just asking."

11 Does that refresh your recollection as to
12 whether it was also you or DPS that asked that the
13 hours be changed?

14 A. Not really. Hang on a second. Possibly.

15 Q. Okay.

16 (Exhibit 97 marked.)

17 Q. (BY MS. KORGAONKAR) Exhibit 97 is Bates
18 marked TEX-00462079.

19 A. I see it.

20 Q. If you could just take a minute to read the
21 chain.

22 A. Okay. (Witness reading.)

23 Q. In the chain --

24 A. Hang on.

25 Q. Sorry.

1 A. Okay. I'm sorry.

2 Q. Okay. So this chain discusses mobile EIC
3 units for Hays County; is that right?

4 A. Yes.

5 Q. So you'll see in the e-mail from Keith Ingram
6 to Joyce Cowan, September 24th, 2013, at 3:52 p.m.,
7 Mr. Ingram states --

8 A. 3:52?

9 Q. 3:52. I apologize.

10 A. Okay. "Excellent"? Okay.

11 Q. He writes, "Excellent. The times are
12 basically up to you. We think during business hours is
13 better."

14 Is it DPS's position that during business
15 hours is a better time for mobile EIC units as well?

16 A. Well, we -- for -- because of our employees,
17 we prefer to issue the EICs during business hours.
18 That's what we do everywhere else in the state.

19 Q. And with respect to the actual citizens who
20 would be applying for them, does DPS have a position as
21 to whether business hours or non-business hours would
22 be better for those people?

23 A. Well, we're not open during non-business
24 hours. Our business hours are established, as I talked
25 about somewhere here.

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1 Q. Right. So I understand that. My question --

2 A. Okay.

3 Q. -- is a little bit different. I understand
4 that you just stated that during business hours is much
5 better for DPS employees because, obviously, those are
6 the hours that they generally work.

7 A. Yes.

8 Q. Right?

9 Has DPS ever considered whether business
10 hours also work better for people who would be going to
11 use mobile EIC units?

12 A. Not to my knowledge.

13 Q. Okay. Did DPS request that Mr. Ingram relay
14 this message to Hays County that business hours are
15 better?

16 A. I don't recall. I -- without seeing more, I
17 don't -- I don't know.

18 Q. So just to clarify, your testimony is that you
19 don't recall whether this statement from Mr. Ingram
20 was, in fact, relayed from DPS to Hays County through
21 him?

22 A. No.

23 Q. Okay.

24 (Exhibit 98 marked.)

25 Q. (BY MS. KORGAONKAR) This is Exhibit 98.

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1 A. Okay.

2 Q. If you could just take a minute. Exhibit 98
3 is Bates marked TEX-511238 through 239.

4 A. Yes.

5 Q. Okay. So this exchange concerns Sabine
6 County's EIC participation; is that right?

7 A. Yes.

8 Q. So in it a Kathy Bergman from DPS has sent to
9 Janice McDaniel of Sabine County some information about
10 EIC training; is that right?

11 That's found at the e-mail from 3:20 p.m.

12 A. From when?

13 Q. 3:20 p.m.

14 A. 3:20 p.m.

15 Q. On the first page. It's confusing 'cause it's
16 a little squished together.

17 A. I'm not sure I'm looking at the same thing
18 you're looking at. Oh, I see it. I see it. I see it.
19 Okay. I'm sorry. So --

20 Q. So do you agree that Kathy Bergman is relaying
21 information here to Janice McDaniel of Sabine County
22 and that that information is about EIC training?

23 A. Yes, that's what it appears to be.

24 Q. And then Janice McDaniel has written back to
25 Ms. Bergman.

1 A. Yes.

2 Q. At 10:26 a.m.

3 A. I see that, yeah.

4 Q. Could you read that e-mail?

5 A. "Ms. Bergman, Judge Watson and I have
6 discussed the EIC participation; and we don't feel we
7 have the staff to commit to this. I am short an
8 employee, plus I have early voting starting next
9 Monday. Thank you, Janice McNeil, Sabine County
10 Clerk."

11 Q. And then at noon that same day, it looks as
12 though Ms. Bergman forwarded this e-mail exchange to
13 you, to Kristopher Krueger, and a number of other
14 people; is that right?

15 A. That's -- yes.

16 Q. What was DPS's reaction to Sabine County's
17 inability to participate because of resource issues?

18 A. So there were resource issues on the part of
19 the county.

20 Q. Correct.

21 A. Okay. Well, that was -- that's Sabine
22 County's decision to make. They still haven't been
23 trained.

24 Q. And are there a number of other counties that
25 couldn't participate in the program because of a lack

1 of resources?

2 MR. KEISTER: Object to form, calls for
3 speculation.

4 Go ahead.

5 THE WITNESS: Yes.

6 Q. (BY MS. KORGAONKAR) Do you know approximately
7 how many?

8 A. Approximately 17.

9 Q. And did DPS follow-up with Sabine County after
10 this e-mail exchange to see whether there was a way
11 that DPS could offer any resources or try to help the
12 county fill the gap in a different way?

13 A. DPS has reached out to Sabine County on a
14 number of occasions and offered to provide them with a
15 mobile EIC training and the equipment. Sabine County
16 has declined to do that.

17 Q. Because of the staff resource issue?

18 A. Because of the -- because of the source issue,
19 they have here. So Sabine County is currently being
20 serviced by HHSC.

21 Q. So did -- is it correct that DPS never reached
22 back out to Sabine County to try to help fill the staff
23 shortage?

24 A. Did DPS reach out to the county to fill a
25 county employee staff shortage, is that your question?

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1 Q. It's little bit different. So Sabine County
2 writes back to Ms. Bergman and says, "We want to
3 participate, but we can't because I don't have enough
4 staff to do it."

5 A. Yes.

6 Q. And my question is: Did DPS e-mail or reach
7 back out to Sabine County and say, "How can we help you
8 with that staff problem in order to get this EIC mobile
9 unit up and running?"

10 A. No.

11 Q. And for the other counties, I think you said
12 there were about 17 that couldn't participate because
13 of various resource issues. Did DPS --

14 A. Various issues.

15 Q. Okay. So how many couldn't participate
16 because of resource issues?

17 A. I don't know.

18 MR. KEISTER: Objection, calls for
19 speculation.

20 Q. (BY MS. KORGAONKAR) So it's subset of the 17.
21 Is that fair to say?

22 MR. KEISTER: Speculation.

23 THE WITNESS: Possibly.

24 Q. (BY MS. KORGAONKAR) Did DPS ever offer to
25 help counties that had resource problems when it came

1 to EIC availability?

2 A. I don't understand. You used the term "help."
3 Can you define that, or can you rephrase the question?

4 Q. Sure.

5 So is it fair to say that a number of
6 counties didn't have enough staff to be able to
7 participate in the EIC program?

8 MR. KEISTER: Objection, calls for
9 speculation.

10 THE WITNESS: I can't answer that. I
11 don't know.

12 Q. (BY MS. KORGAONKAR) Is there anyone at DPS
13 who would know?

14 A. No.

15 Q. So then how does DPS know why counties can't
16 participate if no one at DPS knows why they can't
17 participate?

18 A. The county just either doesn't return the MOU
19 or doesn't accept the training or just says they're not
20 interested.

21 Q. But DPS has received a number of e-mails from
22 counties stating that they don't have enough space or
23 money in the budget or staff to be able to participate;
24 is that not right?

25 A. DPS has received e-mail or communication from

1 some counties, yes.

2 Q. So in response to those e-mails that DPS has
3 received, has DPS ever tried to work with those
4 counties to address whatever the limiting reactant is
5 and to try to enable that county to, in fact, be able
6 to issue EICs?

7 A. To enable the county to issue EICs?

8 Q. To enable the citizens in the county to apply
9 for EICs within the county.

10 A. Yes.

11 Q. And how has DPS done that?

12 A. DPS sends mobile teams to those county that
13 have not entered into the MOU, and we issue the EICs at
14 mobile location in those counties.

15 Q. Has DPS been able to do that with all such
16 counties?

17 A. Yes.

18 THE REPORTER: This is Exhibit 100.

19 (Discussion off the record.)

20 THE REPORTER: This is Exhibit 99.

21 (Exhibit No. 99 marked.)

22 Q. (BY MS. KORGAONKAR) So Exhibit 99 is Bates
23 marked TEX-0511298 through 299.

24 A. Yes.

25 Q. Let's take a moment, and let me know when

1 you're ready.

2 A. (Witness reading.)

3 Okay.

4 Q. This is an e-mail exchange between you and a
5 Ms. Lyndie Madden-Warren of Trinity County; is that
6 right?

7 A. Yes.

8 Q. And it looks as though she's the tax assessor
9 and the voter registrar from her signature; is that
10 accurate?

11 A. Tax assessor/collector, yes.

12 Q. Okay. In her 9/01 e-mail to you, Ms. Warren
13 writes, "After the initial e-mail regarding this pilot
14 program, I responded because our county does not have a
15 licensing department for driver's licenses."

16 And then later in the e-mail she states,
17 "Trinity County is a small county; and in turn, I have
18 a small staff to provide service that we already
19 offer."

20 Is that right?

21 A. That's what it says, yes.

22 Q. Okay. And then in your response to her at
23 9:47 a.m., you explain two different programs being run
24 by the Department of Public Safety. And then you
25 state, "We will remove Trinity County from the list.

1 If you have any further questions, please don't
2 hesitate to contact me again"; is that right?

3 A. That's right.

4 Q. Beyond this e-mail, did DPS offer any further
5 assistant to Trinity County with respect to the mobile
6 EIC program?

7 A. We may have conducted EIC mobile operations in
8 Trinity County, although my reference indicates that
9 Trinity County has signed the MOU, returned -- or
10 received their training, and their equipment is
11 currently operational as of 5 May.

12 Q. Okay. But that would have likely occurred
13 after this exchange at some point?

14 A. That's correct.

15 Q. Do you know at what point that occurred? Can
16 you tell me?

17 A. No.

18 Q. Okay. What do people in counties like Trinity
19 County that don't have licensing departments do to
20 apply for any other forms of DPS ID? If you need a
21 license and you live in Trinity County, what do you do?

22 A. They travel to a location where they can get
23 one.

24 Q. Do you know where the closest location is to
25 Trinity County where someone could get one?

1 A. I would have to reference our website.

2 Q. And your response would be the same with
3 respect to personal identification cards as well,
4 right?

5 A. Driver's license or Texas identification
6 cards, that's correct.

7 Q. In general, when it comes to counties that
8 decline to participate in the program, what were the
9 reasons generally offered by those counties?

10 A. The reasons could be varied. I've had
11 conversations with the County judge that said the
12 sheriff is the election official, and I can't make him
13 do it. I've -- we've had exchanges with counties that
14 say they don't have the personnel or the -- or the
15 resources to do that. And some of them don't offer us
16 any answer at all.

17 Q. Okay. And are these counties generally
18 comparatively poor counties?

19 A. I don't know.

20 Q. Are they generally located in specific regions
21 of the state?

22 A. Specific regions?

23 Q. Are they concentrated in certain regions of
24 the state?

25 A. Those counties are -- please clarify which

1 counties you're talking about in order for me to answer
2 your question.

3 Q. The counties that declined to participate in
4 the program.

5 A. Yes.

6 Q. In general, are those distributed evenly
7 throughout the State; or are they concentrated in
8 certain regions of the State?

9 A. By way -- to answer your question, I would say
10 that they're scattered. They're across the State.

11 Q. Would you say it's a fairly even distribution
12 throughout the state?

13 A. I would have to --

14 MR. KEISTER: Objection, vague.

15 THE WITNESS: I would say no.

16 Q. (BY MS. KORGAONKAR) So if it's not a fairly
17 even distribution. In general, terms where are they
18 concentrated?

19 A. The panhandle.

20 Q. Do you have any sense as to why that would be?

21 A. No.

22 (Exhibit No. 100 marked.)

23 (Discussion of the record.)

24 Q. (BY MS. KORGAONKAR) This exhibit is Bates
25 stamped TEX-00462181 through 2184.

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1 A. Yes.

2 Q. Let me know when you have had a moment to
3 review.

4 A. (Witness reading.)

5 Okay.

6 Q. So this e-mail chain is initiated by the
7 Dallas County Elections Department, and it concerns
8 that county's request to work with DPS on a mobile
9 voter ID initiative; is that right?

10 A. That's the subject, yes.

11 Q. And is that generally the content of the
12 exchange as well?

13 A. Yes.

14 Q. Okay. I want to direct your attention to the
15 e-mail located at Page 462182, which is the second page
16 of the packet.

17 A. Yes.

18 Q. And it's an e-mail that you sent Tuesday,
19 September 10th at 7:29 p.m.

20 A. Yes.

21 Q. Okay. Could you read that e-mail?

22 A. It says mission creep. These folks would like
23 our DSUs at locations other than offices, semicolon,
24 quote, appropriate public and private events, unquote,
25 like state fairs to issue EICs. I'm not sure who would

1 like -- who would we like to reach out to them.

2 Q. What does "mission creep" mean?

3 A. Mission Creep is a colloquialism. We used it
4 just to describe a change in mission in a dynamic
5 environment.

6 Q. What does -- what does "creep" mean in the
7 context of mission creep? I understand the mission.

8 A. It's the evolution -- it's the evolution of a
9 mission.

10 Q. Does it mean that a mission is growing, like,
11 creeping like a vine, for example?

12 A. It could, or it could mean that the mission is
13 changing in terms of what we've been asked to do.

14 Q. Does it have any kind of connotation --

15 A. It's a statement.

16 Q. -- to you?

17 A. Not to me. It's a statement.

18 Q. Do you see how it could have a negative
19 connotation?

20 A. No.

21 Q. Okay. And what are DSUs?

22 A. Disaster support units.

23 Q. Those are the six units that you mentioned
24 earlier?

25 A. That's right. And you have to understand when

1 this e-mail was sent in relation to the information
2 that I provided you earlier, what they would ask for
3 was those six disaster support units. And I would have
4 to look and see when we constituted the 25 units to
5 satisfy the mobile requirement.

6 Q. Okay. Since your -- it's your -- I just want
7 to be clear. Your testimony is that mission creep has
8 no negative connotation whatsoever?

9 A. Not to me.

10 Q. Okay.

11 MS. KORGAONKAR: Let's take a final
12 break, and then I think we'll be done shortly.

13 THE REPORTER: Off the record.

14 (Recess from 5:43 p.m. to 5:51 p.m.)

15 THE REPORTER: Back on the record.

16 Q. (BY MS. KORGAONKAR) So you stated earlier
17 that HHSC employees are being trained --

18 A. Yes, I did.

19 Q. -- in certain counties to issue EICs; is that
20 right?

21 A. That's what I said, yes.

22 Q. When was it decided that those employees would
23 accept the EIC applications?

24 A. To the best of my recollection, it was
25 sometime in February or March, sometime in that time

1 period. It may have been as early as January. I
2 honestly can't recall.

3 Q. And whose decision was it?

4 A. Well, whoever is in charge of HHSC.

5 Q. What type of HHSC employees are being trained?

6 A. I don't understand their structure or the
7 proper titles of the employees. Based on my discussion
8 with -- with the gentleman who have I have been working
9 with at HHSC, I'm given to understand that their HHSC
10 employees whose duty station is -- is one of those
11 seven counties that they're going to work in. And I
12 know that one of them is a registered nurse. But other
13 than that, I don't exactly why they do.

14 Q. Okay. And do you know what type of presence
15 HHSC has in counties where it's issuing EICs in those
16 seven counties?

17 A. Over and above the one or two people that I've
18 been made aware of or I might be a party on e-mails
19 that might be in a certain county, no.

20 Q. So you don't know really know what they have
21 in those counties, what kind of presence, how many
22 employees?

23 A. No. I have a hard enough time keeping track
24 with DPS stuff.

25 Q. Okay. And has DPS provided training to those

1 employees who will be accepting the applications?

2 A. Yes.

3 Q. What kind of training?

4 A. It's training that's similar to the training
5 that we've provided to the county employees to
6 familiarize the HHSC employee with everything that he
7 or she would need to know in order to issue an election
8 certificate.

9 Q. Okay. And was -- was that training provided
10 from Austin, or was it provided by a regional manager
11 or regional commander?

12 A. The training to HHSC employees was provided by
13 a DPS employee, and we refer to those DPS employees as
14 facilitators.

15 Q. Okay. And has any notice gone out to the
16 public at large concerning EIC availability from HHSC
17 offices?

18 A. I'm unaware. I don't know.

19 Q. And you don't know whether DPS has issued any
20 kind of notices to that effect?

21 A. No, ma'am, I don't.

22 Q. Do you know whether any of the HHSC office
23 that will be accepting EIC applications are also able
24 to provide certified copies of birth records?

25 A. I don't know what other services HHSC provides

1 in their offices.

2 Q. And how many -- strike.

3 It's HHSC offices; is that right?

4 A. Yes. It's -- it's seven -- it's HHSC offices
5 in seven counties.

6 Q. Okay. Thank you.

7 A. I don't know how many offices they are.

8 Q. Okay. Understood. Thank you.

9 Is DPS currently using all of the
10 equipment that it has purchased to facilitate the
11 remote acceptance of EIC applications?

12 A. All of what equipment?

13 Q. All of the equipment that you would have
14 mentioned earlier that goes with mobile EIC stations'
15 all of the printers, computers, cables, blue screens.

16 A. So --

17 Q. Cameras.

18 A. I understand your question to be: Did we
19 break it apart?

20 Q. No. The question --

21 A. Okay.

22 Q. -- is all -- of all of those pieces of
23 equipment that was purchased for the purpose of using
24 the mobile EIC stations, is every piece of equipment in
25 use currently?

1 A. Every piece of equipment that was purchased --
2 and again, I don't know who actually paid for it --
3 that was configured into an EIC set remains in the EIC
4 set, except for the bench stock that I mentioned
5 before, which is used for testing.

6 Q. Okay. So are there any -- was any equipment
7 purchased that was not configured?

8 A. I don't believe so, no.

9 Q. Okay. And are all of the configured kits
10 being used right now throughout the State somewhere to
11 accept mobile EIC applications?

12 A. I don't believe so, no.

13 Q. Do you have an estimate about how many kits
14 might be unused at this moment?

15 A. I don't -- I don't know. I know -- I know
16 that -- that some of those kits are being used by
17 employees and -- and that there's a schedule for those
18 kits to be deployed to sites to issue EICs. I know
19 that we have issued 55 of those kits to counties, and I
20 know that we're in the -- somewhere in the process of
21 issuing up to seven of those kits to HHSC; but I can't
22 provide you the granularity of which kit's being
23 currently used, which kit was used today, or which kit
24 was used tomorrow.

25 Q. So for the kits that you mentioned, there are

1 employees using right now, what are they using them
2 for?

3 A. Well, we're currently issuing EICs. Well, not
4 right now; but I mean, today we're issuing EICs.

5 Q. So are there any kits that are configured
6 today --

7 A. Right.

8 Q. -- to issue EICs remotely but that are not
9 being used for that purpose, that are lying around?

10 A. Not -- I don't believe so, no.

11 Q. So each configured EIC kit is out there being
12 used for EICs?

13 A. Again, it would depend on the schedule that
14 that unit's being -- that that unit's -- that the
15 schedule for that unit. So a unit may sit in an office
16 today; but if it's going to Glasscock County tomorrow,
17 then it would be used tomorrow. So I suppose strictly
18 speaking about it, the narrow parameters of your
19 question, it wasn't used today; but it will be used
20 tomorrow.

21 Q. Okay. So they're all -- all the configured
22 ones are in circulation; is that fair to say?

23 A. That's a good characterization.

24 Q. You would agree with that?

25 A. I would agree with it.

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1 Q. Are there any plans to purchase more kits?

2 A. Not that I'm aware of.

3 Q. Why were there only seven HHSC counties
4 selected to participate?

5 A. Because that's the number of -- of counties
6 that HHSC offered to provide employees for based on the
7 78 counties that don't have driver license offices
8 and -- and -- and haven't also received the EIC
9 equipment or training.

10 Q. Did DPS ask HHSC whether it was willing to
11 participate in more than seven counties?

12 A. I don't recall. I don't know. I was not a
13 party to any of those discussions.

14 Q. Okay. Do you know what the largest county is
15 without a driver's license office?

16 MR. KEISTER: Objection, vague.

17 THE WITNESS: Yeah.

18 Q. (BY MS. KORGAONKAR) Do you know what the
19 geographic largest county is that doesn't have a
20 driver's license office?

21 A. I have no idea.

22 Q. Do you know what the county with -- do you
23 know what the most populous county without a driver's
24 license office is?

25 A. I do not know.

1 MS. KORGAONKAR: I'm done.

2 MS. MARANZANO: I don't have anything
3 further, but I just want to say for the record that
4 because we had a disagreement about an instruction that
5 was given we're going to hold the deposition open.

6 MR. KEISTER: Okay. Well, I have a few
7 questions. I promise not to use up an hour.

8 EXAMINATION

9 BY MR. KEISTER:

10 Q. Mr. Rodriguez, pursuant to the deposition
11 notice did you bring documents with you today that you
12 relied on in preparing for this deposition?

13 A. Yes, sir, I did.

14 Q. Okay. Would you please pull out Exhibits 82
15 and 83. And would you look at Exhibit 83, please?

16 A. Yes.

17 Q. Is Exhibit 83 a document that you brought
18 today for use in the deposition that you relied on in
19 preparing for the deposition?

20 A. Yes, sir.

21 Q. Could you tell us briefly what Exhibit 83 is?

22 A. Exhibit 83 is a printout of the spreadsheet
23 that we used to collect EIC application information.

24 Q. Okay. And where is this Exhibit 83? What is
25 it printed out from?

1 A. It's printed out from the spreadsheet that's
2 maintained on the SharePoint site --

3 Q. Okay.

4 A. -- the DPS SharePoint site.

5 Q. Okay. And is there a -- is there a name for
6 that site?

7 A. The DPS SharePoint site. That's -- that's
8 what I call it.

9 Q. Okay. Is that referred to as the dashboard?

10 A. The dashboard is a document that's derived
11 from the information available on the SharePoint site.

12 Q. Okay. Would you hand this document to the
13 court reporter and ask her to mark it, please?

14 (Exhibit No. 101 marked.)

15 THE REPORTER: Exhibit 101.

16 Q. (BY MR. KEISTER) Can you identify
17 Exhibit 101, please?

18 A. Yes, sir. Exhibit 101 essentially is
19 Exhibit 83, however what we -- for legibility purposes,
20 what -- what I asked the analyst to do was to collapse
21 some of the cells, some of the columns that -- that are
22 not relevant to EIC issuance, and the information
23 contained in those columns is administrative
24 information.

25 Q. Okay. Are all of the same EIC issuances that

1 are listed on 101 also listed on Exhibit --

2 A. 83?

3 Q. -- 83?

4 A. Yes, sir. Yeah.

5 Q. Okay.

6 MR. HAYGOOD: Can we get a look at 83, do
7 you mind?

8 MR. KEISTER: Yeah. But I don't know
9 about -- if I get them messed up what we're going to
10 do.

11 Q. (BY MR. KEISTER) Can you take a look at
12 Exhibit 82, please.

13 A. Yes, sir.

14 Q. Is Exhibit 82 a document that you brought
15 today to the deposition?

16 A. Yes, sir, it is.

17 Q. Okay. And can you identify what Exhibit 82
18 is?

19 A. Yes, sir. Exhibit 82 contains information --
20 it's a printed copy of the information from our -- from
21 a spreadsheet that's resident on our SharePoint site,
22 and the information deals with -- excuse me --
23 inquiries that are made either at mobile or brick and
24 mortar offices --

25 Q. Okay.

1 A. -- or counties.

2 Q. And with respect to Exhibit 83, 101, and
3 Exhibit 82, when were those documents printed out?

4 A. We asked for these -- I asked for these
5 documents to be printed out -- I believe it was -- it
6 was this week, and I believe the date was Tuesday.

7 Q. Okay. And does that mean that these documents
8 contained all the information as of Tuesday with
9 respect to the issuances and the inquiries?

10 A. Yes.

11 MS. KORGAONKAR: Objection, leading.

12 THE WITNESS: And she hasn't said that
13 before.

14 Q. (BY MR. KEISTER) Okay. That's fine. That's
15 fine. Just keep all those in front of you.

16 Okay. Do you have Exhibit 80 in front of
17 you?

18 A. Yes, sir.

19 Q. Is Exhibit 80 a document that you brought to
20 the deposition today?

21 A. Yes, sir, it is.

22 Q. Okay. And is this a document you relied upon
23 in preparation for the deposition?

24 MS. KORGAONKAR: Objection, leading.

25 Q. (BY MR. KEISTER) You can answer.

1 A. Okay. Yes.

2 Q. Okay. Can you tell us what Exhibit 80 is,
3 please?

4 A. Exhibit 80 is referred to as titled. It's an
5 EIC dashboard. And a dashboard is just a depiction of
6 information on a -- on a printed document.

7 Q. Okay. And when was this document printed out?

8 A. This document was -- was also printed on
9 Tuesday.

10 Q. Okay. And does this document contain
11 up-to-date information as of Tuesday?

12 A. As of Tuesday, yes, sir.

13 Q. Okay. Let me ask you to hand this document to
14 the court reporter and have her mark it.

15 (Exhibit No. 102 marked.)

16 THE REPORTER: Exhibit 102.

17 Q. (BY MR. KEISTER) Can you identify
18 Exhibit 102, please?

19 A. Exhibit 102 shows -- it's a three-page
20 document. It shows the -- the number or the -- it
21 enumerates the invalid applications for 2013 and for
22 2014.

23 Q. Okay. And is Exhibit 102 a document that you
24 brought to the deposition today?

25 A. Yes, sir.

1 Q. Okay. And does Exhibit 102 contain
2 information current as of the date that it was printed
3 out?

4 A. Yes, sir, as of Tuesday.

5 Q. Okay. Thank you.

6 Would you pass this to the court reporter
7 and ask her to mark it, please?

8 THE REPORTER: Thank you.

9 (Exhibit No. 103 marked.)

10 THE REPORTER: Exhibit 103.

11 Q. (BY MR. KEISTER) Can you identify
12 Exhibit 103, please?

13 A. Exhibit 103 are -- are a series of map charts
14 that -- that are used during our daily updates to
15 provide us with situational awareness on the status of
16 EIC operations across the state.

17 Q. And what type information does the map charts
18 on Exhibit 103 provide?

19 A. The map chart is color coded by county.
20 There's a legend in the lower left-hand side along with
21 the as of date of the -- of the production of this --
22 of that particular document. And it shows the status
23 of each county, vis-à-vis driver license, EIC
24 operations, the county issuing EICs, whether the status
25 of the county has returned their MOU, if the county

1 needs to be trained in the EIC of issuance or if
2 they're experiencing -- in this instance the county
3 has -- has equipment issues.

4 There's also on -- on further -- or on
5 subsequent documents there's also a small data block in
6 the top left-hand corner that provides the -- the as of
7 date. It provides the number of EICs that were issued,
8 the number of EICs that -- the approval for which is
9 pending, the EICs that have not been approved, and the
10 total number of transactions. And then below that is
11 what -- what I refer to as a slant report, which merely
12 provides those -- those numbers that are rolled up on a
13 single line of information.

14 Q. Okay. Is there any other documentation within
15 those reports or attached to those reports?

16 A. On the back -- on the second -- the second
17 slide, what that shows -- or the subsequent slides,
18 what they show are they show that the -- the date,
19 time, region, county, location, and -- and the status
20 of that location for EIC units across the state of
21 Texas. And when I say "verified by the column of
22 information" means that one of our employees has gone
23 to that location and has ensured that the location is
24 suitable for our needs in the EIC operations.

25 Q. Okay. And how many -- how many separate

1 clipped documents are contained within that exhibit,
2 please?

3 A. Nine.

4 Q. Okay. Thank you, sir.

5 Would you pass this document to the court
6 reporter, please?

7 THE REPORTER: Thank you.

8 (Exhibit No. 104 marked.)

9 THE REPORTER: Exhibit 104.

10 Q. (BY MR. KEISTER) Can you identify
11 Exhibit 104, please?

12 A. Yes, sir.

13 Q. What is Exhibit 104?

14 A. Exhibit 104 is the driver license division
15 customer operations organization chart. It's also
16 referred to as an org chart. And what it does is it
17 provides the hierarchical structure for each of our DPS
18 regions, 1A through 6B. It shows the chain of command,
19 the supervisory chain of command; it lists the offices
20 within each region; and it also lists the city where
21 the office is resident and the employees at that office
22 or it shows if there's a vacancy in that office.

23 Q. Okay. Is that a document that you brought
24 today to the deposition that you relied upon in
25 preparation for the deposition?

1 MS. KORGAONKAR: Objection, leading.

2 THE WITNESS: I relied on this in
3 preparation for my deposition.

4 Q. (BY MR. KEISTER) And you brought that today?

5 A. And I brought it with me.

6 Q. Pass that to the court reporter to be marked,
7 please.

8 (Discussion off the record.)

9 (Exhibit No. 105 marked.)

10 THE REPORTER: Exhibit 105.

11 Q. (BY MR. KEISTER) Can you identify
12 Exhibit 105, please?

13 A. Exhibit 105 are a series -- pardon me -- are a
14 series of sheets of paper. They're organized by DPS
15 region. There's multiple pages per region. What it
16 shows is it provides more information for the
17 hierarchical structure of the DPS regions. It provides
18 the chain of command, the office supervisors, their
19 contact information; phone, fax, cell, and also their
20 physical location, their duty -- their duty location.
21 On subsequent pages it provides the -- the physical
22 location, the street location for each office; the
23 station number; the area number, which is -- which is
24 an archaic term. We used to use that when -- when
25 commissioned personnel were in charge of those offices,

1 but we still reflect it anyway. It reflects the days
2 that are open, it reflects the hours of operation of
3 each office, and it also reflects the contact
4 information; telephone numbers and fax for each. And
5 it does that for DPS Regions 1A through 6B -- 6B.

6 Q. Okay. Is this information reflected in that
7 document current as of today?

8 MS. KORGAONKAR: Objection, leading.

9 THE WITNESS: This information is current
10 as of the time that it was printed, which I believe was
11 Tuesday.

12 Q. (BY MR. KEISTER) Okay. Do you have any
13 reason to think any of those offices have changed
14 between now and Tuesday?

15 A. No, sir.

16 Q. Okay. Is Exhibit --

17 A. 105.

18 Q. -- 105 a document that you brought today for
19 this deposition?

20 A. I did, yes, sir.

21 Q. Is it a document that you relied upon in
22 preparation for this deposition?

23 A. Yes, sir.

24 Q. And with respect to -- I may have asked you
25 this, but I don't remember. With respect to

1 Exhibit 104 --

2 A. Yes.

3 Q. -- is the information contained within
4 Exhibit 104 current as of today?

5 MS. KORGAONKAR: Objection, leading.

6 THE WITNESS: This information that's
7 reflected on 104 is current as of when it was printed
8 on Tuesday.

9 Q. (BY MR. KEISTER) Okay. Do you have any
10 reason to think there's been any changes between
11 Tuesday and today?

12 A. No. The -- the only changes may be some
13 employees who -- who are working who may have been
14 employed or may have left the employ. But -- but
15 the -- the majority of the information in terms of
16 office supervisors, assistant manager, and the rest of
17 the chain of command should remain the same.

18 Q. Okay.

19 A. And maybe some -- and maybe some
20 discrepancies.

21 Q. Okay. Thank you.

22 Have we identified all of the documents
23 that you brought for the deposition today?

24 A. These are -- yes, sir.

25 Q. Okay. When did the DPS begin tracking the

1 issuances of the EICs?

2 A. We began tracking EIC issuances and inquiries
3 at the -- at the beginning of the program.

4 Q. Okay. And how did DPS track the issuance of
5 EICs at the beginning of the program?

6 A. The -- the way we used -- the method we used
7 to track it, the -- that information was that the
8 regional managers would consolidate that information
9 and provide it to me, generally speaking, through
10 e-mail. And if I am not mistaken, it was done several
11 times a day. And that -- that went on for about a
12 week, and then I would produce a -- a weekly report
13 that I referred to earlier.

14 Q. Okay. And the reports you referred to
15 earlier, how were -- how were they styled? What were
16 they called?

17 A. I believe it was just called EIC report, or it
18 may have been referred to as a daily or a weekly EIC
19 report.

20 Q. Okay.

21 A. I would need to see for certain. I need to go
22 back and look at it.

23 Q. If -- well, that's fine.

24 A. Okay.

25 Q. Yeah. How long did you prepare the EIC

1 reports?

2 A. I prepared the EIC reports and I sent them
3 until, roughly, the beginning of November.

4 Q. Okay. Did anyone else in the agency prepare
5 EIC reports or were you the only one?

6 A. From the beginning of the program until about
7 the beginning of December, I was the only one that did
8 that with -- with the exception of -- I believe there
9 was a day or so that I had gone on leave, on vacation,
10 and -- and I was unavailable to collect the
11 information, so -- I left, so somebody had done that.
12 And I can't remember if it was either Steve Bell or
13 Paul Watkins, one of those.

14 Q. Okay. Why did you discontinue the preparation
15 of the EIC reports?

16 A. Because it was extremely time-consuming.

17 Q. Okay. Any other reasons?

18 A. Well, there -- there was the -- the potential
19 for errors. And I spent a lot of time going back and
20 finding out -- you know, confirming the information
21 that I had been given.

22 Q. Okay. Did the department, DPS, continue
23 tracking EIC issuances after you discontinued your
24 preparation of the EIC reports?

25 A. Yes.

1 Q. How did that tracking go forward or continue?

2 A. There's an analyst -- one of our analysts
3 named Ryan O'Connor, and Ryan was asked to work with me
4 on -- on the -- on the data tracking, on EIC tracking.
5 And Ryan and I had a discussion about how we should
6 track EICs. And, as a consequence, he began -- he
7 began to collect it, the information, on a spreadsheet
8 that he kept, and he would produce some documents.

9 Q. Okay. Did -- did Ryan create EIC reports like
10 you did and circulate those reports as you did?

11 A. No.

12 Q. Okay. What happened to the information that
13 Ryan would collect?

14 A. Ryan collected the report -- or the
15 information -- excuse me -- and he would provide what
16 can be best categorized as -- as an ad hoc report. So
17 if somebody were to want -- want specific -- an updated
18 EIC information, Ryan would print the -- the tables
19 from the Excel spreadsheet and they would provide it to
20 that individual.

21 Q. Okay. Did there come a time when Ryan
22 discontinued his participation in the tracking of EICs?

23 MS. KORGAONKAR: Objection, leading.

24 THE WITNESS: Yes.

25 Q. (BY MR. KEISTER) And do you know when that

1 was?

2 A. It was -- it was the winter -- it was December
3 of '13 or early in January of '14.

4 Q. Okay. Did the DPS continue tracking EIC
5 issuances after Ryan discontinued or -- or stopped his
6 participation?

7 A. Yes.

8 Q. How did the -- how did DPS track EIC
9 issuances?

10 A. We -- what we did was, we moved the -- the
11 information, the spreadsheet, that Ryan was maintaining
12 from his computer onto a SharePoint site. So that
13 was -- that was the first part of it. And the second
14 part was -- was the important part, because Ryan and I
15 had a discussion that -- you know, we were still
16 collecting information the same way. And -- and so
17 what Ryan suggested was a better way to collect the
18 information. And that gave birth to the -- its current
19 form where the -- the input is available on the DPS
20 share point site and the CSR can -- can go to that site
21 and can enter the information about an EIC issuance or
22 an inquiry directly into the share point site. And
23 then that's kept -- that's kept resident. That updates
24 the spreadsheet.

25 And then from that spreadsheet we can --

1 we can pull -- we can pull ad hoc queries or we can
2 print pages or tables or whatever we decide -- whatever
3 information we decide we decide we need we can print
4 from that database.

5 Q. Do any of the documents that you brought to
6 the deposition today demonstrate how -- how that --
7 that tracking system works?

8 MS. KORGAONKAR: Objection, leading.

9 THE WITNESS: The documents that I
10 brought with me, what they do is they --

11 Q. (BY MR. KEISTER) And you can refer to them --

12 A. I'm going to have to.

13 Q. -- by exhibit numbers.

14 A. Okay. So the CSR inputs information onto the
15 SharePoint site and that serves to populate Exhibit
16 No. 83, okay, or Exhibit No. 82, depending on -- on
17 whether it's an issuance or it's an inquiry. I won't
18 talk about that because it's the same things.

19 Q. Okay.

20 A. Okay. And based on that, then there's a -- a
21 document that's -- there's a link -- hyperlink to -- on
22 our website, on the -- the SharePoint site, and the
23 hyperlink is -- is called EIC executive dashboard. And
24 that is depicted on Exhibit No. 80. And what that is
25 is that's an Excel spreadsheet with a number of tabs

1 associated with that spreadsheet. And we've discussed
2 some of these tabs earlier today.

3 Q. Okay. To your knowledge, does anyone at DPS
4 create an EIC report as you did last year based upon
5 the information that is kept on the -- on the share
6 site?

7 A. No, sir. We discontinued that when I stopped
8 producing the report.

9 Q. Okay. Thank you, sir.

10 MR. KEISTER: I'll pass the witness.

11 MS. KORGAONKAR: I have one question --
12 or two questions, rather, about the documents that --
13 that you were just looking at with Mr. Keister.

14 FURTHER EXAMINATION

15 BY MS. KORGAONKAR:

16 Q. The first is, you testified earlier that
17 271 EICs had been applied for --

18 A. Yes.

19 Q. -- is that right? Is that number reflected in
20 any of these exhibits?

21 A. Yes.

22 Q. Can you direct me to that, please?

23 A. Yes.

24 (Discussion off the record.)

25 THE WITNESS: It's the last page of

1 that -- of that exhibit.

2 Q. (BY MS. KORGAONKAR) So, for the record, you
3 are indicating the last page of Exhibit 103?

4 A. I'm sorry. I misspoke. It's -- it's -- I'll
5 keep it together. It's this packet.

6 Q. So it's the first page of the last packet in
7 Exhibit 103 --

8 A. Yes.

9 Q. -- is that right? Okay. And is that the same
10 document that indicates the number of EICs that have
11 been issued?

12 A. Yes. If you refer to the block in the upper
13 left-hand corner, do you see the text that's there?

14 Q. I do.

15 A. That -- that establishes the information that
16 you're asking.

17 MS. KORGAONKAR: And we just want to
18 request that the State of Texas produce the documents
19 that you all brought with you today in native format to
20 the plaintiffs with the appropriate metadata.

21 MR. KEISTER: I'm sorry. I don't make
22 discovery agreements on the record. I'll be happy to
23 entertain whatever discovery we need to do.

24 MS. MARANZANO: I have a quick follow-up
25 question.

1 Are you done?

2 MR. KEISTER: I am.

3 MS. MARANZANO: Okay.

4 FURTHER EXAMINATION

5 BY MS. MARANZANO:

6 Q. I believe when your counsel was asking you
7 questions, Mr. Rodriguez, he asked you to compare the
8 reports that Ryan O'Connor had made to the reports
9 that -- weekly reports that you made, and he asked you
10 to compare the circulation of those reports. Do you
11 recall that?

12 A. No.

13 Q. Let me ask you this. Can you describe the
14 circulation of the weekly reports?

15 A. Okay. So we -- we have to understand that
16 when I produced the documents that I produced from June
17 to the beginning of November, that's what I call a
18 report. Okay? And -- and the circulation of that
19 report that was e-mailed, as I said before, would be
20 pushed out, sent in an e-mail form, to -- to different
21 people in DPS; regional managers and other people who
22 were involved in the EIC process.

23 Q. So can you list everybody who it was sent to
24 for me?

25 A. I would have to -- if you want an exhaustive

1 list, I would have to see some of those e-mails that I
2 did. I can -- I can answer as best I ask.

3 Q. Would looking at a previous exhibit help
4 refresh your recollection?

5 A. Tremendously, yes.

6 Q. Okay. Let's see. I don't have the numbers in
7 front of me, but I believe -- perhaps I could look at
8 the pile of exhibits.

9 A. You're going to need a wheelbarrow.

10 THE REPORTER: Well, they were in order.

11 MS. MARANZANO: No, I think it's ones
12 that we introduced today.

13 Q. (BY MS. MARANZANO) Do you have all of the
14 exhibits in front of you that --

15 A. I have the ones that we introduced.

16 Q. Is that the one --

17 A. These ones?

18 MR. KEISTER: You can stop typing until
19 we get it sorted. You're not going to do it?

20 MS. MARANZANO: Okay. Are we still on
21 the record?

22 THE REPORTER: Yes.

23 Q. (BY MS. MARANZANO) Can I show you what we
24 previously marked as Exhibit 74. Is that an example of
25 one of your weekly reports?

1 A. This is an example of one of my weekly
2 reports, yes.

3 Q. Does that help refresh your recollection as to
4 who it was circulated to?

5 A. Well, not entirely. This is a partial list of
6 people who would get it.

7 Q. And who's on that list?

8 A. Well, I'm on it. Kristopher Krueger, who
9 is -- is one of our strategic analysts; Lisa Daughtry,
10 who works at license and records services; Ryan
11 O'Connor, who was -- who was helping me collect
12 tracking information; Maria Flores is a -- is an
13 assistant manager in one of the two regions. She's not
14 in mine. I don't know. And Raquel Ramirez is an
15 assistant manager in Region 3.

16 Q. Did you send these reports to -- to
17 Mr. McCraw?

18 A. I believe he may be on some of the
19 distribution, yes.

20 Q. Did you send these reports to anybody outside
21 DPS?

22 A. I don't recall having done that. I may have.

23 Q. Okay. Did you send these reports to the DPS
24 commission?

25 A. The DPS commission?

1 Q. To the board of commissioners that oversees
2 DPS?

3 A. The Public Safety Commission.

4 Q. Thank you. Yes, the Public Safety Commission.

5 A. No.

6 Q. Anybody else that you can recall as you sit
7 here today who got copies of your weekly reports?

8 A. Well, as I stated before, it was -- it was my
9 normal policy or procedure to send them to all of the
10 regional managers, okay, to -- to my chain of command.
11 And then -- and then after that it gets fuzzy. I may
12 have -- there may -- I have may included
13 Cheryl MacBride and other -- Tom Vinger and some folks
14 in -- in media and communications. I -- that's the
15 best I can do. I need to see one and then I can tell
16 you who they all are.

17 Q. Okay. I have nothing further at this point.

18 MR. KEISTER: Just one thing. To the
19 extent you feel I inappropriately cut you off this
20 morning, for whatever time is remaining, if you want to
21 readdress that question, we'll consider it.

22 How much time is remaining?

23 THE REPORTER: Three minutes.

24 MS. KORGAONKAR: Can we go off the
25 record?

1 MR. KEISTER: Sure, yeah.

2 THE REPORTER: Off the record.

3 (Discussion off the record.)

4 THE REPORTER: All right. Back on the
5 record.

6 MS. MARANZANO: Okay. Back on the
7 record.

8 Q. (BY MS. MARANZANO) This morning you may
9 recall that we talked a little bit about EIC
10 cancellations?

11 A. Yes.

12 Q. And I had asked you a question about the
13 procedures under which a driver's license can be
14 canceled. Do you know what those are?

15 MR. KEISTER: And let me -- let me just
16 object that this is outside the area for which he's
17 designated. But to the extent he can answer, I'll
18 allow him to do it.

19 MS. MARANZANO: Thank you.

20 THE WITNESS: As best I can recall, a
21 driver license can be suspended if -- if a customer or
22 a driver gets an excessive number of tickets or they
23 have other -- a DWI, or something along those lines,
24 they can suspend it. I'm -- I'm unfamiliar with the
25 term "cancellation of a driver license." It may be

1 possible, but I don't know about that.

2 Q. (BY MS. MARANZANO) And would an excessive
3 number of tickets be caused to cancel an EIC?

4 A. No.

5 Q. Can personal identification cards be canceled?

6 A. Yes, we can cancel -- we can cancel -- I
7 suppose we can cancel documentation if there's evidence
8 that the -- the applicant or the customer provided
9 false or fraudulent information. And I -- I guess that
10 would be the same rule to -- for driver licenses and
11 personal ID cards, yes.

12 Q. Okay. And any other circumstances under which
13 a personal ID can be canceled?

14 A. I'm unaware of any.

15 Q. Okay. I don't think I have anything further.

16 A. Thank you very much.

17 MR. KEISTER: We'll reserve the remainder
18 until time of trial.

19 FURTHER EXAMINATION

20 BY MS. KORGAONKAR:

21 Q. Can I just ask you what the relationship is
22 between DPS and the Public Safety Commission?

23 A. The -- as I understand it -- and that's --
24 that's a level above me -- the Public Safety
25 Commission, they're the ones that essentially hire

1 Director McCraw. He works for the Public Safety
2 Commission. If we want to make a substantive change in
3 a rule or if we want to -- to have a contract to
4 purchase equipment, or anything like that, the Public
5 Safety Commission -- and they're appointed civilians
6 and they're appointed by the governor -- then they --
7 we have to present that case to the PSC, the Public
8 Safety Commission. And I -- I guess you could say that
9 they're our governing body. I mean, they -- they make
10 sure that we comply with -- with the rules as set out.
11 So we answer to the Public Safety Commission.

12 Q. Would the MOUs have had to go through the
13 commission?

14 A. No.

15 Q. Okay.

16 MR. KEISTER: Is that it?

17 THE REPORTER: Off the record.

18 (Proceedings concluded at 6:35 p.m.)
19
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WITNESS CORRECTIONS AND SIGNATURE

Please indicate changes on this sheet of paper, giving the change, page number, line number, and reason for the change. Please sign each page of changes.

PAGE/LINE	CORRECTION	REASON FOR CHANGE
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S I G N A T U R E O F W I T N E S S

I, TONY RODRIGUEZ, solemnly swear or affirm
under the pains and penalties of perjury that the
foregoing pages contain a true and correct transcript
of the testimony given by me at the time and place
stated, with the corrections, if any, and the reasons
therefor noted on the foregoing correction pages(s).

TONY RODRIGUEZ

Job No. 4-AUSTIN-161268 KS

TONY RODRIGUEZ

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

MARC VEASEY, et al.,)
Plaintiffs,)
v.) CIVIL ACTION NUMBER
) 2:13-cv-193(NGR)
RICK PERRY, et al.,)
Defendants.)

REPORTER'S CERTIFICATE

THE STATE OF TEXAS:
COUNTY OF TRAVIS:

I, Kim Seibert, a Certified Shorthand Reporter in
and for the State of Texas, hereby certify to the
following:

That the witness, TONY RODRIGUEZ, was duly sworn by
the officer and that the transcript of the oral
deposition is a true record of the testimony given by
the witness; That the deposition transcript was
submitted on _____, 2014, to the witness,
or to the attorney for the witness, for examination,
signature, and return to U.S. Legal Support, Inc., by
_____, 2014;

That the amount of time used by each party at the
deposition is as follows:

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1 Ms. Jennifer Maranzano - 3 hrs. 49 min.
Mr. Scott Brazil - 10 min.
2 Ms. Natasha Korgaonkar - 3 hrs. 5 min.
Mr. Richard F. Shordt -
3 Mr. Ronald Keister - 21 min.
Mr. Robert W. Doggett -
4

5 I further certify that I am neither counsel for,
6 related to, nor employed by any of the parties or
7 attorneys in the action in which this proceeding was
8 taken, and further that I am not financially or
9 otherwise interested in the outcome of the action.

10 GIVEN UNDER MY HAND AND SEAL OF OFFICE, on this the
11 _____ day of _____, 2014.

12
13 
14



15
16 Kim Seibert, Texas CSR 4589
Expiration Date: 12-31-2014
17 U.S. Legal Support, Inc.
Austin Centre
18 701 Brazos, Suite 380
Austin, Texas 78701
19 Firm Registration 344
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21 Job No. 4-AUSTIN-161268 KS
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